European Social Charter | Charte sociale européenne

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX

9 September 2026

THIRD REPORT
ON THE NON-ACCEPTED PROVISIONS
OF THE REVISED EUROPEAN SOCIAL CHARTER

Austria

Table of Contents

I. OVERVIEW 3

II. EXECUTIVE SUMMARY 3

III. EXAMINATION OF THE NON-ACCEPTED PROVISIONS OF THE REVISED EUROPEAN SOCIAL CHARTER 7

Appendix I - Programme "the European Social Charter and Austria", 27-28 April 2026 37

Appendix II - Factsheet – Austria and the European Social Charter 422

Appendix III: Chişinău Declaration 433

Appendix IV - Digest of the case law of the ECSR 47

I. OVERVIEW

The European Social Charter is based on a ratification system which enables States Parties, 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 revised European Social Charter (Article 20 of the 1961 Charter) and it allows states, at any time subsequent to ratification of the treaty, to notify the Secretary General of their acceptance of additional articles or paragraphs.

It is in the spirit of the Charter for States Parties to progressively increase their commitments, tending towards acceptance of additional and eventually all provisions of the Charter where possible, as opposed to an *à la carte* stagnancy.[1]

The procedure on examination of reports on non-accepted provisions is provided for by Article 22 of the European Social Charter of 1961. According to this provision, the States Parties shall send to the Secretary General, at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or by subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.

In September 2022, the European Committee of Social Rights (ECSR) adopted a decision to henceforth implement the procedure on non-accepted provisions in respect of all States Parties to either Charter, in a reinforced manner. The current procedure provides for 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 comments within three months after receipt of the written information.

II. EXECUTIVE SUMMARY

1. The situation of Austria as regards the non-accepted provisions of the European Social Charter

Austria ratified the European Social Charter on 29 October 1969 and the revised European Social Charter on 20 May 2011, accepting 76 of its 98 paragraphs.

Austria has not yet accepted the following 20 provisions of the revised Charter: Articles 2§1, 4§4, 6§4, 7§6, 18§3, 19§4, 19§8, 19§10, 19§11, 21, 22, 23, 24, 26§2, 27§3, 29, 30 and 31§§1-3.

[1] The opening paragraph of Part I of the revised European Social Charter 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 Charter. Part III, Article A, provides that “each of the Parties undertakes [...] to consider Part I of this 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. See CM(2022)196-final.

On 31 May 2011 Austria declared that it considered itself bound by Articles 8§2 and 15§2 of the 1961 Charter.

2. Previous examinations

This is the third examination by the ECSR of the provisions of the Charter not yet accepted by Austria. The first two examinations took place in 2016 and 2021; the two ECSR reports are available on the Council of Europe (CoE) website.

The previous (second) examination of non-accepted provisions (NAP) was carried out in 2021 based on the report submitted by the Austrian authorities. The ECSR concluded that there were no major obstacles to the acceptance of 6§4, 7§6, 8§2, 19§4 a) and b) 19§11, 23, 26§2, 27§3, 29, 30, and 31§2, which could therefore be accepted.

As regards the other non-accepted provisions, the ECSR was of the view that the information provided was not sufficient to make a proper assessment of the situation in respect of Articles 19§10, 21 and 22. With respect to Articles 2§1, 4§4 and 15§2, 18§3, 19§4c, 19§8, 24, 31§1 and 31§3 ECSR considered that the situation did not appear to be fully in conformity with the Charter.

3. Current examination

Based on the procedure on non-accepted provisions, Austria was invited to submit written information, which was registered in March 2026 and subsequently published on the CoE website.

The present examination covers the following non-accepted provisions of the revised Charter:

Articles 2§1, 4§4, 6§4, 7§6, 18§3, 19§4, 19§8, 19§10, 19§11, 21, 22, 23, 24, 26§2, 27§3, 29, 30 and 31§§1-3.

- Article 2§1 – The right to just conditions of work
- Article 4§4 – The right to a reasonable period of notice for termination
- Article 6§4 – The right to collective action
- Article 7§6 – The right of children and young persons to protection
- Article 18§3 – The right to engage in a gainful occupation in the territory of other Parties
- Article 19§§4, 8, 10 and 11 – The right of migrant workers and their families to protection and assistance
- Article 21 – The right to information and consultation
- Article 22 – The right to take part in the determination and improvement of the working conditions and working environment
- Article 23 – The right of elderly persons to social protection
- Article 24 – The right to protection in cases of termination of employment
- Article 26§2 – The right to dignity at work
- Article 27§3 – The right of workers with family responsibilities to equal opportunities and equal treatment
- Article 29 – The right to information and consultation in collective redundancy procedures
- Article 30 – The right to protection against poverty and social exclusion
- Article 31§§1 to 3 – The right to housing

On 27 - 28 April 2026 a delegation of the ECSR, along with Secretariat, held meetings in Vienna with the Austrian authorities, social partners, and representatives of civil society. The meetings were preceded by a bilateral exchange with Ms Korinna Schumann, Federal Minister for Labour, Social Affairs, Health, Care and Consumer Protection. The programme of the meeting is set out in Appendix I. The ECSR expresses its appreciation for the Austrian authorities' engagement in strengthening their commitments under the Social Charter.

Having examined the written information submitted by Austria, the results of the subsequent meetings with the authorities, social partners and civil society, and the written comments submitted by Caritas Austria on 7 August 2026, the ECSR considers that the situation in Austria is compatible with the requirements of the Charter in respect of Articles 6§4, 7§6, 19§4(a), 19§4(b), 19§11, 23, 26§2, 27§3, 30 and 31§2 of the Charter.

As regards Articles 2§1, 4§4, 18§3, 19§4(c), 19§8, 19§10, 24, and 31§§1 and 3, the ECSR considers that the current legal framework or the situation in practice is not fully compatible with the requirements of the Charter. The ECSR therefore encourages the Government to take the necessary steps to enable acceptance of these provisions as soon as possible.

As regards the remaining non-accepted provisions (Articles 21, 22, and 29), the ECSR considers that the information provided did not allow for a full assessment of the situation in law and in practice.

The ECSR notes that on the occasion of the ratification of the Revised European Social Charter, Austria declared that it continued to consider itself bound by Articles 8§2 and 15§2 of the 1961 Charter.
When Austria ratified the 1961 Charter, it accepted Articles 8§2 and 15§2. By its notice of ratification of the Revised Social Charter, Austria should, pursuant to Article B(1), have considered itself bound by the "corresponding provisions" of those Articles. In this regard, Article B paragraph 2 of the Appendix provides that, for the purpose of Article B (2) of the Revised Charter, except for the provisions expressly listed therein, the provisions of the Revised Charter correspond to those of the 1961 Charter with the same article or paragraph number. Since Articles 8§2 and 15§2 are not among the exceptions listed in the Appendix, the corresponding provisions are Articles 8§2 and 15§2 of the Revised Charter. Paragraph 129 of the Explanatory Report clarifies that the term "corresponding" is used in the sense of "to replace". This indicates that Article B was intended to establish a mechanism whereby undertakings under the 1961 Charter are replaced by corresponding undertakings under the Revised Charter. Thus, Article B of the Revised Charter and the Explanatory Report do not appear to envisage a possibility where States ratifying the Revised Charter remain bound by provisions of the 1961 Charter without accepting the corresponding provisions of the Revised Charter. This is also the opinion of the Council of Europe's Directorate of Legal Advice and Public International Law.

The ECSR therefore considers that Austria is bound by Articles 8§2 and 15§2 of the Revised Charter since the date of the entry into force of the Revised Charter vis-à-vis Austria, and it will therefore not examine compliance with Articles 8§2 and 15§2 in the context of this report on non-accepted provisions. The ECSR encourages the Austrian Government to clarify the situation by making a declaratory statement confirming the acceptance of Articles 8§2 and 15§2 of the Revised Charter.

The ECSR encourages Austria to consider accepting the collective complaints procedure in order to increase the effectiveness, speed and impact of the implementation of the Charter and to further strengthen the role of the social partners and non-governmental organisations.

The ECSR remains at the disposal of the Government for enhanced dialogue on the Charter provisions and the relevant case law,[2] and invites Austria 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 Austria is scheduled to take place in 2031.

[2] In the light of the 2022 Charter system reform, States Parties to the Charter can benefit from enhanced dialogue with the Charter's monitoring bodies – constructively and in a spirit of cooperation – as a tool to reach a common understanding of problematic issues that may permit to identify possible solutions to such issues which are suitable for and acceptable to the State Party concerned. Enhanced dialogue may also serve as a means of enabling technical assistance. See CM(2022)114 final.

III. EXAMINATION OF THE NON-ACCEPTED PROVISIONS OF THE REVISED EUROPEAN SOCIAL CHARTER

Article 2§1 – The right to just conditions of work

"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: […]

> **1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit"**

Situation in Austria

In light of its understanding of ECSR case law, the Government is of the view that it cannot currently accept Article 2§1, given that, more than 16 hours of continuous daily working time are permitted in certain cases, particularly in hospitals and pharmacies. As a prerequisite, sufficient rest periods must be available. The report asserts that the COVID-19 crisis has shown that the possibility of allowing longer working hours under certain circumstances is necessary to maintain the healthcare system. The protection of the health of workers employed in these areas should continue to be ensured by sufficient rest periods.

The report states that the reference period for maximum weekly working time (including overtime) aligns with the case law requirements, but that the collective agreement may define a reference period exceeding one year with regard to regular weekly working time (excluding overtime), provided it creates recreation periods of several weeks.

Since 1 July 2025, employees in hospitals or pharmacies who have signed an opt-out agreement (i. e. an individual declaration consenting to longer weekly working hours) have been subject to an average weekly working time of 52 hours until 30 June 2028. From 1 July 2028 onwards, the maximum number of weekly working hours will be 48 (including overtime). Employees who have not signed the opt-out agreement are already subject to an average weekly working time of 48 hours. Accordingly, the average weekly working time for employees in hospitals and pharmacies will be reduced or has already been reduced. In hospitals, the standard daily working time is 13 hours. In certain cases, extended shifts of up to 25 hours are permitted with the consent of the staff bodies, provided that the employee is on call and the actual time worked does not exceed an average of 48 hours over a 17-week calculation period. Such an extension is only permitted for important organisational reasons, and if it is absolutely necessary for the relevant organisational unit of the hospital.

The report further states that the entire period of readiness for work at a location specified by the employer is considered working time. Conversely, being on call at a location chosen by the employee is considered a rest period, unless they are actually called in to work. According to the report, this distinction aligns with the rulings of the Court of Justice of the European Union under the EU Working Time Directive (2003/88/EC)..

Opinion of the ECSR

Article 2§1 guarantees workers the right to reasonable limits on daily and weekly working hours, including overtime[3]. The underlying aim is to protect workers' safety and health. This right must be guaranteed through legislation, regulations, collective agreements or any other binding means. In addition, there must be an appropriate authority, such as a labour inspectorate, to ensure that the limits are respected in practice.

The Charter does not expressly define what constitutes reasonable working hours. However, it has already held a number of times that a total working week which, within the framework of "flexibility regulations", may attain up to 60 hours per week or exceed 60 hours per week is in principle unreasonable[4]. In its Statement of Interpretation on Article 2§1 adopted in Conclusions 2025, the ECSR clarified that, in certain sectors and in exceptional circumstances, workers performing specific functions may be permitted to exceed these limits. Such sectors may include healthcare, emergency and security services, the military and services essential for the functioning of the State. Any such derogation must remain exceptional and be accompanied by adequate safeguards, including adequate and compensatory rest, reasonable reference periods, recording and supervision of working hours and regular medical supervision of the workers concerned[5]The ECSR also takes into account the reference periods for the averaging of working hours: periods that do not exceed four to six months are accepted, and periods of up to a maximum of one year may also be acceptable in exceptional circumstances[6].

Periods of on-call duty during which the employee has not been required to perform work for the employer, although they do not constitute effective working time, cannot be regarded as a rest period in the meaning of Article 2§1 of the Charter[7]. This principle applies both for the standby duty at the employer's premises and for on-call time spent at home[8]. The ECSR also notes that, with regard to inactive parts of on-call period during which no work is carried out and where the worker stays at home or is otherwise away from the employer's premises, under no circumstances should such periods be regarded as rest periods in their entirety. However, there are two situations that need to be addressed. Firstly, the situation involves a worker who is on-call away from the employer's premises (at home or at another designated place by the employer) and who is under an obligation to be immediately available or available at very short notice and on a recurring basis to the employer, and where there are serious consequences in cases of the failure to respond. Such on-call periods, including where no actual work is performed (inactive on-call), must be classified as working time in their entirety and remunerated accordingly in order to be in conformity with the Charter. Secondly, the situation involves a worker who is away from the employer's premises (at home or at another place designated by the employer) and who has a certain degree of freedom to manage their free time and is allowed time to respond to work tasks (i.e. they do not have to report for work immediately or at a very short notice or on a recurring basis). In these circumstances, the inactive on-call periods amount neither to full-fledged working time nor to genuine rest periods. In such cases the situation may be considered as being in conformity with the Charter if the worker receives a reasonable compensation. The ECSR will assess the reasonableness of the nature and level of such compensation on a case-by-case basis and will take into account

[3] Conclusions XIV-2 (1998), Statement of Interpretation on Article 2§1.
[4] Conclusions XXII-3 (2023) - Spain; Conclusions XIV-2 (1998), Netherlands; Conclusions 2018, Türkiye.
[5] Conclusions 2025, Statement of Interpretation on Article 2§1
[6] Conclusions XIV-2 (1998), Statement of Interpretation on Article 2§1; Conclusions XXII-3 - Poland - Article 2-1
[7] *Confédération Française de l'Encadrement* CFE-CGC v. France, Complaint No. 16/2003, decision on the merits of 12 October 2004, §50.
[8] Conclusions XXII-3 - Spain - Article 2-1; Conclusions 2022 - Albania - Article 2-1

circumstances such as the nature of the worker‘s duties, the degree of the restriction imposed on the worker and other relevant factors[9]

The ECSR recalls that it has previously considered that the situation in Austria might raise problems of conformity with Article 2§1, especially with regard to the permitted 16 hours daily working period in hospitals and pharmacies (1st report on NAP, 2016, 2nd report on NAP, 2021). The ECSR notes that this situation persists. The ECSR further considers that the situation in Austria might raise additional issues in view of the reference periods for averaging working hours, as well as the classification of on-call periods as rest time.

In the light of the above information, the ECSR considers that the current legal framework or the situation in practice is not fully compatible with the requirements of the Charter. However, the ECSR encourages the Government to take the steps necessary to enable acceptance of this provision as soon as possible.

Article 4§4 – Reasonable period of notice

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake to recognise the right of all workers for a reasonable period of notice for termination of contract.

Situation in Austria

According to the report, statutory provisions governing notice periods and dates are laid down in the Austrian Salaried Employees Act (AngG) with regard to “white-collar workers”, and in the Austrian General Civil Code (ABGB) with regard to “blue-collar workers”. Collective agreements also contain provisions on notice periods and dates.

The report states that Federal Law Gazette I No. 111/2025 marked a further step toward aligning the notice periods for blue-collar workers with those for white-collar workers.

Private sector

In principle, the following now applies in the private sector in accordance with Section 1159 (2) and (4) of the ABGB: In the absence of an agreement more favourable to the employee, the employer may terminate the employment relationship at the end of each calendar quarter by giving prior notice. The notice period is:

- six weeks after less than two years’ service
- two months after two years’ service
- three months after five years’ service
- four months after fifteen years’ service
- five months after twenty-five years’ service.

In the absence of an agreement that is more favourable to the employee, the employee may terminate the employment relationship on the last day of a calendar month with one month's notice. This notice period may be extended by agreement to up to six months; however, the notice period to be observed by the employer may not be shorter than the notice period agreed with the employee.

[9] Conclusions 2025, Statement of Interpretation on Article 2§1

The report further states that where a collective agreement concluded between 1 January 2018 and 30 June 2025 includes different termination rules, these rules continue to apply, even if they are less favourable to employees, provided that provisions on notice periods shorter than one week are replaced with one-week notice periods. If a collective agreement now provides for legally effective shorter notice periods and different termination dates as a result, the same parties to the collective agreement or their legal successors may continue to stipulate provisions that deviate from § 1159 (2) and (4), provided that these provisions do not treat the employee less favourably than the previous arrangements.

Section 13 of the Domestic Help and Domestic Employee Act defines a notice period of 14 days for low-level work which can be shortened by agreement to one week.

Fixed – term employment relationships cannot be terminated. They may be terminated prematurely only upon mutual agreement between the employer and the employee or for good cause (Sections 19 §1, § 25 AngG; Sections 1158 (1), 1162 ABGB).

During the trial period, which must not exceed one month, the employment relationship may be terminated by both parties at any time without observing any notice periods (Section 19§2 AngG; Section 1158 (2) ABGB.

In light of its understanding of ECSR case law, the Government is of the view that it cannot currently accept Article 4§4, given that under Austrian law, the employment relationship may be terminated at any time during the probationary period by either party without complying with notice periods and dates. Secondly, the notice periods set out in the Domestic Help and Domestic Employee Act have not been adjusted by the aforementioned amendments.

Public sector

The report provides that statutory provisions governing notice periods and dates for the public sector are laid down in the Civil Servants Employment Act (BDG 1979) with regard to federal civil servants and in the Act on Contractual Public Employees (VBG) with regard to federal contractual employees.

Termination of civil servants' employment is only foreseen in case of a provisional employment relationship. § 10 BDG 1979 defines a notice period for provisional employment relationships of one calendar month during the first six months of service (trial period), two calendar months after completion of the trial period and three calendar months after completion of the second year of service.

For contractual public employees, § 33 VBG defines a notice period of one week during the first six months of service, two weeks after six months of service, 1 month after one year of service, 2 months after two years of service, 3 months after five years of service, four months after ten years of service and five months after fifteen years of service.

Additionally, the contractual employee shall have a special leave of at least one-fifth of the regular weekly working hours, if the employer terminates the employment (§ 33a VBG).
The provisions for contractual employees are based on the regulations of the private sector and therefore amendments in the private sector are followed up in parallel for the public sector.

The report provides additional Länder-specific information, by way of example, for Upper Austria and Vorarlberg.

Opinion of the European Committee of Social Rights

The ECSR recalls that the main purpose of Article 4§4 of the Charter, which requires a reasonable period of notice to be given before terminating employment, is to allow the persons concerned time to look for other work before their current employment ends, while they are still receiving wages.

The protection afforded by Article 4§4 applies to all categories of employees, independently of their status/grade, including those employed on a non-standard basis. It also applies during probationary periods[10]

The ECSR assesses situations on a case-by-case basis. The main criterion for assessing whether a period of notice is reasonable is length of service. For example, the ECSR concluded that the following periods of notice were not in conformity with the Charter:

- five days' notice after less than three months of service, even during the probationary period[11]
- one week's notice after less than six months of service[12]
- two weeks' notice after more than six months of service[13];
- less than one month's notice after one year of service[14];
- one month's notice for workers with five or more years' service[15];
- eight weeks' notice after at least fifteen years' service[16].

Receipt of wages in lieu of notice is admitted, provided that the sum paid is equivalent to that which the worker would have earned during the corresponding period of notice[17]. In order to ensure that the protection granted by Article 4§4 of the Charter is effective, the notice and/or compensation should not be left to the discretion of the parties to the employment contract, but should be governed by legal instruments such as legislation, case law, regulations or collective agreements[18].

The ECSR recalls that it has previously considered that the situation in Austria might raise problems of conformity with Article 4§4, especially with regard to the notice period applicable for blue-collar workers and for unskilled workers (First report on NAP 2016 and second report on NAP 2021). The ECSR notes from the report that Austria has recently addressed this issue by aligning the notice periods for blue-collar and white-collar workers.

The ECSR notes, however, that shorter notice periods agreed under collective agreements concluded between 1 January 2018 and 30 June 2025 remain valid under certain circumstances. The ECSR further notes that the notice period applicable to certain workers covered by the Domestic Help and Domestic Employees Act may be as short as one week and that during the probationary period, which may last for up to one month, an employment relationship may be terminated at any time without notice.

[10] GENOP-DEI and ADEDY v. Greece, Complaint No. 65/2011, decision on the merits of 23 May 2012
[11] Conclusions 2007, Albania.
[12] Conclusions XIII-3 (1995), Portugal
[13] Conclusions XVI-2 (2004), Poland.
[14] Conclusions XIV-2 (1998), Spain.
[15] Conclusions 2007, Albania and Conclusions 2003, Bulgaria.
[16] Conclusions 2010, Türkiye.
[17] Conclusions 2010, Türkiye, Article 4§4
[18] Conclusions 2010, Armenia.

In light of the above, the ECSR considers that the current legal framework is not fully compatible with the requirements of Article 4§4 of the Charter. However, the ECSR encourages the Government to take the steps necessary to enable acceptance of this provision as soon as possible.

Article 6§4*[19] – The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties recognise:

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

Appendix: It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

Situation in Austria

The report confirms the legal framework and practice as described in the first and confirmed in the second report on non-accepted provisions.

The report states that the Austrian constitution does not contain any provisions on the right to strike, and there is no specific legislation governing industrial disputes. Industrial action is not restricted in any way: there is no ban on strikes or lock outs, and there is no limitation of strike action. The report emphasises that the dialogue between the social partners is generally conducive to a climate of communication. It helps to avoid and/or settle conflicts between employees and employers. This is the reason why going on strike is not very common in Austria and why specific legislation governing industrial disputes is not considered necessary.

In the assessment of a strike situation, labour law provisions are primarily applied, but also general civil law and criminal law provisions; however, hardly any courts-of-last-instance rulings exist in this context.

Austria takes the position that - apart from a violation of the peace obligation under the collective agreement and a ban on industrial action under a works agreement - collective action is only unlawful if it can be classified as causing “unethical damage”. A strike concerning working conditions (in the broader sense), with no disproportionate relationship between the goal of the strike and the damage caused, which addresses the employer and which is organised by a trade union, cannot be considered unethical.

There is no general prohibition on strikes for civil servants and public contractual employees, but there can be restrictions on the right to strike in line with the ECHR. The right to strike can be restricted if tasks of public authority are exercised. A strike is only qualified as inadmissible if the balancing of interests turns out to be in favour of the stated public interests. Therefore, a minimum service is required. The Government is of the view that this is in conformity with Article 6§4 and adds that the question seems to remain a theoretical one thanks to the good partnership and trusting cooperation with the Union of Public Services.

[19] Asterix denotes that provision was discussed during the meeting with the Austrian authorities.

Opinion of the European Committee of Social Rights

The ECSR recalls that under Article 6§4, the Charter recognises the right of workers and employers to collective action where conflicts of interest arise. The right to strike is intrinsically linked to the right to collective bargaining, as it represents the most effective means to achieve a favourable result from a bargaining process.[20]

Article 6.4 does not oblige States Parties to introduce specific legislation on collective action, provided that the right to strike is ensured in law and in practice.[21] With regard to the further requirements under Article 6§4, the ECSR refers to the legal analysis in the first report on non-accepted provisions and to the Digest of the case-law of the European Committee of Social Rights.

The ECSR notes from the report and from its exchange with the Austrian authorities that, due to Austria's well-established culture of strong and constructive dialogue between social partners, collective action is rare. However, there are no legal restrictions on collective action and such action is only considered unlawful under specific circumstances derived from law and case-law.

The ECSR also notes that the European Convention on Human Rights (ECHR) is directly binding in Austria with the status of constitutional law. While the scope of the right to strike protected in terms of Article 11 ECHR, as interpreted by the European Court of Human Rights, is not fully identical to the right to strike under Article 6§4 of the Charter, notably with regard to the right of civil servants to strike–these differences are not relevant in the Austrian context. This is because Austrian federal law does not impose any restrictions on the right to strike for civil servants.

Additionally, the ECSR observes that Austria is already bound by the right to strike as a State Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), as well as to the ILO Convention No 87 on the Freedom of Association and Protection of the Right to Organise, that equally encompasses the protection of the right to strike.[22]

It follows that the acceptance of Article 6§4 would only consolidate the right to strike in Austria, without creating any new duties or new restrictions for the social partners.

The ECSR has previously found (first and second report on NAP) that there are no obstacles to acceptance of Article 6§4. In the light of the information provided by the Government and the discussions with the Austrian authorities, **the ECSR considers that the situation in respect of Article 6§4 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.**

Article 7§6* – Inclusion of time spent on vocational training in normal working time

7§6 With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to provide that the time spent by young

[20] Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No. 140/2016, decision on the merits of 22 January 2019, §143.
[21] Compare European Trade Union Confederation (ETUC), Netherlands Trade Union Confederation (FNV) and National Federation of Christian Trade Unions (CNV) v. the Netherlands, Complaint No. 201/2021, decision on the merits of 24 January 2024 § 93; Conclusions 2022, Belgium.
[22] ICJ, advisory opinion on the right to strike under ILO Convention No. 87, 21 May 2026.

persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day.

Situation in Austria

According to the written information provided by the Government, the majority of young persons take up training in an apprenticeship, which is based on a so-called dual system: apprentices receive on-the-job training at their employer's undertaking and attend classes at a vocational school. The time spent at school is added to their working time.

In addition, Federal Law Gazette I No. 11/2024 stipulates in Section 11b of the Employment Contract Law Adaptation Act (AVRAG) that an employee's participation in training, further education, or continuing education that is required by law, regulations, collective bargaining agreements, or the employment contract, is considered working time. This provision also applies to young persons, insofar as their employment relationship falls within the scope of the AVRAG, as is the case with apprenticeships.

Courses preparing for the vocational matriculation examination (Berufsreifeprüfung) can be completed during the regular apprenticeship period. Participation is not compulsory and the apprenticeship period may also be extended to take account of the time spent on such courses. The Berufsreifeprüfung, does not, however, constitute vocational training as such, but supplements vocational training by providing a higher level of general education and access to university studies.

There are no explicit regulations, however, for young persons who complete additional voluntary training directly related to their profession. These additional courses are not usually counted as working time.

Opinion of the European Committee of Social Rights

The ECSR recalls that in accordance with Article 7§6, time spent on vocational training by young people under the age of 19 during normal working hours must be treated as part of the working day. Such training must, in principle, be done with the employer's consent and be related to the young person's work. Training time must thus be remunerated as normal working time, and there must be no obligation to make up for the time spent in training, which would effectively increase the total number of hours worked.[23] This right also applies to training followed by young people with the consent of the employer and which is related to the work that is carried out, but not necessarily financed by the latter.**[24]**

The ECSR notes that the dual apprenticeship system practiced in Austria ensures that time spent at vocational school is counted as working time. In addition, § 11b AVRAG provides that an employee's participation in training, further education, or continuing education that is required by law, regulations, collective bargaining agreements, or the employment contract, is considered working time.

The ECSR has previously found that there were no major obstacles to the acceptance by Austria of Article 7§6 (reports on NAP 2016, 2021). The ECSR notes further that, in the meantime, §11b AVRAG, which was enacted in 2024, transposed the obligation under Directive

[23] Conclusions V (1977), Statement of Interpretation on Article 7§6.
[24] Conclusions 2023 Andorra, Cyprus, Germany.

(EU) 2019/1152 on transparent and predictable working conditions in the European Union to recognise period of vocational training into national law.

In the light of the information provided by the Government and the discussions with the Austrian authorities and the social partners, **the ECSR considers that the situation in respect of Article 7§6 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.**

Article 18§3 – Liberalising Regulations

18§3 With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake to liberalise, individually or collectively, regulations governing the employment of foreign workers.

Situation in Austria

According to the report, the Government is of the view that it cannot currently accept Article 18§3, as Europe's diversely developed economic ecosystems combined with ever-changing economic circumstances require flexible instruments to keep Austria's labour market within reasonable balance. A "liberalisation only" commitment would disable Austria to adapt its admission policy to capacity. As the percentage of foreign workers in the labour market in Austria is already one of the highest among EU and OECD countries, commitment to a liberalisation only policy regarding access to the labour market for Council of Europe member states does not seem possible for the foreseeable future, as significant differences in economic levels persist.

Opinion of the European Committee of Social Rights

The ECSR recalls that Article 18§3 requires States to periodically liberalise the regulations governing the employment of foreign workers in the following areas: access to the national labour market, the right to engage in an occupation and rights in the event of loss of employment. While economic or social reasons might justify limiting access of foreign workers to the national labour market, the implementation of policies limiting access of third-country nationals to the national labour market should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States parties to the Charter, nor substantially limit the possibility for them of accessing the national labour market.[25] In addition, such policies should be liberalised over time.

The ECSR has previously considered that that the situation in Austria constitutes an obstacle to the acceptance of Article 18§3 of the Charter (reports on NAP 2016 and 2021).

In the light of the written information provided by the Austrian authorities and the confirmation that further liberalisation of labour market access for Council of Europe member states does not seem possible in the foreseeable future the ECSR considers that the current legal framework or the situation in practice is not fully compatible with the requirements of the Charter. However, the ECSR encourages the Government to take the steps necessary to enable acceptance of this provision as soon as possible.

[25] Conclusions 2012 - Ireland - Article 18-3

Article 19 – The right of migrant workers and their families to protection and assistance
Article 19§4*

19§4 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:

4. to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

(a) remuneration and other employment and working conditions, (b) trade union membership and the enjoyment of benefits of collective bargaining, (c) accommodation.

Situation in Austria

According to the report, Article 19§4 is complied with in terms of working conditions and trade union membership, but not in terms of accommodation as far as nationals of Contracting Parties outside the EEA are concerned.
The report refers to the ECSR's previous conclusions finding the situation in Austria in non-conformity with Article 16 of the Charter on the ground that the length of residence required of third-country nationals for receipt of housing allowances in certain Länder was excessive.

Opinion of the European Committee of Social Rights

The ECSR reiterates that under Article 19§4(a), States Parties are obliged to eliminate all legal and de facto discrimination concerning remuneration and other employment and working conditions, including in-service training and promotion as well as vocational training.[26]

Article 19§4(b) requires States Parties to eliminate all legal and de facto discrimination concerning trade union membership and as regards the enjoyment of the benefits of collective bargaining, including the right to be founding member and access to administrative and managerial posts in trade unions.[27]

The undertaking of States Parties under sub-paragraph (c) is to eliminate all legal and de facto discrimination concerning access to public and private housing.[28] There must be no legal or de facto restrictions on home–buying[29], access to subsidised housing or housing aids, such as loans or other allowances[30].

The ECSR understands that the main obstacle to accepting this provision is the current situation in certain Länder regarding the length of residence requirements relating to Article 19 § 4 (c) (housing subsidies).

---

[26] Conclusions VII (1981), United Kingdom; Conclusions 2019, Albania.
[27] Conclusions 2011, Statement of interpretation on Article 19§4b; Conclusions XIX-4 (2011), Luxembourg.
[28] European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, §§ 111-113; Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 145-147 (finding of violation of Article E taken in conjunction with Article 19§4c).
[29] Conclusions IV (1975), Norway; Conclusions 2019, Albania.
[30] Conclusions III (1973), Italy; Conclusions 2019, Albania

In its previous evaluations (first and second report on NAP, 2016 and 2021), the ECSR encouraged Austria to remedy the situation with regard to Article 19 § 4(c) and, in the meantime, to accept Articles 19 § 4(a) and (b) immediately.

Based on the information provided in writing and during the exchange with the government authorities, the ECSR considers that the situation in respect of Articles 19 § 4 (a) and (b) is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.

The ECSR further considers that the current legal framework or the situation in practice in respect of Article 19§4(c) is not fully compatible with the requirements of the Charter. The ECSR therefore encourages the Government to take the steps necessary to enable the acceptance of this provision as soon as possible.

Article 19§8

19§8 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:

8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality.

Situation in Austria

The report states that Article 19§8 cannot be accepted for the reasons described in the first report and confirmed in the second report on the non-accepted provisions, notably the existing legislative framework going beyond the expulsion grounds permitted under Article 19§8, in particular in case of general reasons for refusal (no accommodation according to local standards, no health insurance, inability to sustain themselves, no integration agreement, political reasons) or if there are circumstances constituting an administrative offence (marriage/adoption of convenience). Additionally, the Austrian Federal Office for Immigration and Asylum is the body which makes decisions as a first-instance authority, and only the second-instance authority, i.e. the Federal Administrative Court, is a court as required by the ECSR.

According to the report, the Government is of the view that, due to the tense migration situation in Austria, the major obstacles which had been identified cannot be removed for the time being, rendering ratification impossible.

Opinion of the European Committee of Social Rights

The ECSR reiterates that Article 19§8 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. Such expulsions can only be in conformity with the Charter if they are ordered by a court or a judicial authority, or an administrative body whose decisions are subject to judicial review. Any such expulsion should only be ordered in situations where the individual concerned has been convicted of a serious criminal offence, or has been involved in activities which constitute a substantive threat to national security, the public interest or public morality. Expulsion orders must be proportionate, taking into account all

aspects of the individual's behaviour as well as the circumstances and the length of time of their presence in the territory of the State.[31]

All foreign migrants served with expulsion orders must have also a right of appeal to a court or other independent body.[32]

The ECSR has previously considered that the legal framework in Austria constitutes an obstacle to the acceptance of Article 19§8 (first and second report on NAP). **In the light of the above information, the ECSR considers that the current legal framework or the situation in practice is not fully compatible with the requirements of the Charter. However, the ECSR encourages the Government to take the steps necessary to enable acceptance of this provision as soon as possible.**

Article 19§10

19§10 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 extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply.

Situation in Austria

The report refers to the Committee of Social Rights conclusion of non-conformity relating to Austria's family reunification regulations (Art. 19§6).

The Settlement and Residence Act (Niederlassungs- und Aufenthaltsgesetz) does not differentiate between self-employed and employed persons with regard to the right to family reunification. Employed persons can immigrate via the "Red-White-Red Card" (Rot-Weiß-Rot-Karte). Family members are granted a "Red-White-Red Card Plus"(Rot-Weiß-Rot-Karte plus). However, for persons who are self-employed on a not entirely short-term but nevertheless only temporary basis, "only" a residence permit for "self-employed persons" ("Aufenthaltsbewilligung Selbständiger") is provided for. Family reunification is not possible for this residence permit, as it does not allow permanent immigration to Austria. The Government considers that this would conflict with Art. 19§10 in conjunction with §6 of the revised Social Charter.

Opinion of the European Committee of Social Rights

The ECSR recalls that Article 19§10 requires States Parties to extend the rights provided for in paragraphs 1 to 9, 11 and 12 to self-employed migrant workers and their families.[33]

States Parties must ensure that there is no unjustified treatment which amounts to discrimination, in law or in practice, between wage-earners and self-employed migrants.[34]
In addition, equal treatment between self-employed migrants and self-employed nationals must be guaranteed in the areas covered by this provision.[35]

[31] Conclusions 2015, Statement of interpretation on Article 19§8.
[32] Conclusions 2015, Statement of interpretation on Article 19§8.
[33] Conclusions I (1969), Norway.
[34] Conclusions 2002, France.
[35] 2009 Conclusions XVIII-1 (2006) Luxembourg.

A finding of non-conformity with regard to any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under Article 19§10, because the same grounds for non-conformity also apply to self-employed workers. This is so where there is no discrimination or disequilibrium in treatment.[36] The ECSR notes in this respect that the latest assessment of the situation in Austria under Article 19§6 led to a conclusion of non-conformity on several grounds (conclusions 2023).

The ECSR recalls that it had previously considered that the lack of information on legislation and practice concerning self-employed migrants in Austria prevented it from assessing the situation in the country as it relates to Article 19§10 (second report on NAP 2021).

In the light of the above information, the ECSR considers that the current legal framework or the situation in practice in respect of Article 19§10 is not fully compatible with the requirements of the Charter. However, given that Austria is already bound by Article 19§6, the ECSR encourages the Government to take the necessary steps to enable acceptance of this provision as soon as possible.

Article 19§11*

19§11 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.

Situation in Austria

According to the information provided by the Government, this provision is complied with as regards children who are still subject to compulsory education.

With regard to adults, the Public Employment Service offers job-specific German courses for unemployed people registered with the Public Employment Service (PES). Furthermore, the Austrian Integration Fund (Österreichischer Integrationsfonds - ÖIF) offers basic German language courses for asylum seekers and beneficiaries of subsidiary protection, as well as for Ukrainian displaced persons.

The Integration Agreement serves to integrate third-country nationals lawfully residing in Austria and aims to enable them to participate in social, economic, and cultural life in Austria. Upon receiving their residence permit pursuant, third-country nationals undertake to acquire, within two years (24 months), knowledge of the German language, as well as of the democratic system and the values of the legal and social order derived therefrom.

The ÖIF language portal (www.sprachportal.at) offers a comprehensive range of learning resources and online German courses (A1-B2) available free of charge from Monday through Saturday in 12 languages. In addition, the language portal offers learners over 5,000 exercises, 500 instructional videos and audio files to learn and improve their German anytime and anywhere.

[36] Conclusions 2023, Cyprus, Germany, Latvia, the Netherlands, Sweden.

Apart from language courses offered by the ÖIF, Austria-wide measures are offered by the Federal Ministry of Education and the 9 Länder that are financed with the help of funds from the European Social Fund.

Young people and adults who live in Austria, regardless of their origin and educational background, are given the opportunity to acquire basic skills free of charge even after completing their school-based training phase; i.e. the labour market status does not matter.

In Styria, for example, the "Starting Point German" (Startpunkt Deutsch) contact point was established by the Province of Styria, the City of Graz and the ÖIF. Based on individual consultations and transparent placement tests, this contact point facilitates a needs-oriented selection from the range of German language courses offered throughout Styria.

Vorarlberg supports literacy and German language courses for adult asylum seekers (15+) as part of its basic services. Adults granted asylum or subsidiary protection receive federal support for German and integration courses, including online options through the Austrian Integration Fund. Third-country nationals needing to prove German proficiency for extending their residence permits receive financial help from federal authorities for their initial courses; those registered as job seekers can get support from the PES for further German training. Vorarlberg also funds accessible German courses specifically for women to support integration, with participants paying a small fee for educational reasons. From April 2026 to March 2028, Vorarlberg will implement an ESF project to enhance the language and professional skills of migrant and refugee women, with German acquisition and certification as central components.

Opinion of the European Committee of Social Rights

The ECSR recalls that under Article 19§11, States Parties should promote and facilitate the teaching of the national language to children of school age, as well as to the migrants themselves and to members of their families who are no longer of school age. The teaching of the national language of the receiving state is the main means by which migrants and their families can integrate into normal employment and society at large.[37]

A requirement to pay substantial fees is not in conformity with the Charter: States Parties are required to provide national language classes free of charge, otherwise for many migrants such classes would not be accessible.[38]

The ECSR notes that children subject to compulsory education receive language training within the school setting. It also notes that, in addition to the language courses for third-country nationals who are registered as job-seekers provided by the Public Employment Service, a wide variety of German language courses and other learning resources are provided free of charge to all learners through an online portal, and that additional Austria-wide language education measures are offered by the Federal Ministry of Education, which are complemented by more targeted programs in the Länder.

In the light of the information available and of the exchange with the Government authorities during the country visit, the ECSR considers that the situation in respect of

[37] Conclusions 2002, France.
[38] Conclusions 2011, Norway.

Article 19§11 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.

Article 21 The right to information and consultation

21 With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and

b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

Article 22 The right to take part in the determination and improvement of the working conditions and working environment

22 With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

a. to the determination and the improvement of the working conditions, work organisation and working environment;

b. to the protection of health and safety within the undertaking;

c. to the organisation of social and socio-cultural services and facilities within the undertaking;

d. to the supervision of the observance of regulations on these matters.

Situation in Austria

In its report, the Government confirms the situation as described in its first and second report on non-accepted provisions. They underline in particular that the rights to information, consultation and participation - with the exception to those related to the safety and health of workers - can only be exercised by the works council, which means that these rights are not guaranteed in undertakings where the prerequisites for establishing a works council exist but none has been established. (In Austria, very small undertakings with up to 4 employees are not required to have a works council). Solely in the areas of safety and health workers have the possibility to exercise their right to participation independently of whether or not a works council exists.

According to a 2022 survey commissioned by the Chamber of Labour, 57 percent of employees in Austria work for companies that have a works council or another representative body. In companies with more than 1,000 employees, 93 percent of employees have a works council or another representative body. In companies with one to four employees, however, the figure is only 22 percent.

As regards the public sector at Länder level, the Styrian Provincial Staff Representation Act 1999 (*Stmk. Landespersonalvertretungsgesetz 1999 – LPVG 1999*) for example contains comprehensive information and participation rights for staff representatives. The staff representation is called upon to protect and promote the professional, economic, social, cultural, and health interests of employees. In the case of measures affecting the health interests of employees or the quality of the workplace, agreement must be reached with the staff representation.

Opinion of the European Committee of Social Rights

The ECSR recalls that Article 21 entitles employees and/or their representatives, be they trade unions, staff committees, works councils or health and safety committees, to be informed of any matter that could affect their working environment, unless the disclosure of such information could be prejudicial to the undertaking.[39]

Under Article 22, workers' right to take part in the determination and improvement of working conditions and working environment implies that workers' representatives may contribute, to a certain extent, to the employer's decision-making process. The great majority of workers (at least 80 %) must be granted a right to participate in the determination and improvement of working conditions and the working environment within the undertaking. This provision applies to all undertakings, whether private or public.[40]

Workers must have legal remedies when this right is not respected. There must also be sanctions for employers who fail to fulfil their obligations under Article 22.[41]

According to Article 6 of the appendix to Articles 21 and 22, Parties may exclude from the scope of these provisions those undertakings employing less than a certain number of workers, to be determined by national legislation or practice and tendency undertakings.[42]

In its previous assessments, the ECSR requested more information on the implementation of the right to information, consultation and participation in all undertakings, whether public or private, and on the availability of legal remedies in case of failure of compliance by the employer.

The ECSR takes note of the written information provided in the report. It notes, firstly, that the relatively low overall percentage of workers in companies that have a works council or another representative body **may lead to the situation in law and practice not to be fully compatible with the requirements of the Charter**. **In addition, the ECSR considers that further information would be necessary to fully assess whether the situation in law and practice is compatible with the requirements of the Charter. In particular, it would need clarification of the legal situation with regard to any legal remedies available to workers**

[39] Conclusions XIX-3 (2010), Croatia.
[40] Syndicat des Agrégés de l'Enseignement Supérieur (SAGES) v. France, Complaint No. 211/2022, decision on the merits of 15 May 2024, § 63.
[41] Conclusions 2018, Azerbaijan, Cyprus, Serbia.
[42] Conclusions 2018 Latvia.

in case their participation rights are not respected. In the meantime, the ECSR encourages the Government to pursue its efforts with a view to accepting Articles 21 and 22 of the Charter as soon as possible.

Article 23* The right of elderly persons to social protection

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

- to enable elderly persons to remain full members of society for as long as possible, by means of:

> **a. adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;**
>
> **b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them;**

- to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:

> **a. provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;**
>
> **b. the health care and the services necessitated by their state;**

- to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.

Appendix: For the purpose of the application of this paragraph, the term « for as long as possible » refers to the elderly person's physical, psychological and intellectual capacities.

Situation in Austria

The report confirms the information contained in the first report on non-accepted provisions (2016). In addition, the report states that Austria has implemented numerous measures in recent years and decades across the key thematic areas of the Federal Senior Citizens Plan to enhance the quality of life of older persons, in particular by promoting their social participation and their independence and dignity in older age.

In addition to comprehensive federal strategies for safeguarding the quality of life of elderly people, the participation of senior citizens is also a focus in the Länder. The Styrian Senior Citizens Act, for example, aims to guarantee the representation of senior citizens' concerns in political decision-making and to provide sufficient advice, information and support. For this purpose, senior citizens receive a subsidy per person. Furthermore, several municipalities have established senior citizens' advisory councils as appropriate bodies to represent the interests of the older generation (for example in the city of Graz). Furthermore, the state of

Vorarlberg strengthened support for home care and family caregivers through the provision of outpatient services, mobile assistance services, additional state subsidy for 24-hour care, and the subsidy for the Red Cross emergency call service. In the area of primary prevention for older and aging people, Vorarlberg also offers a wide range of decentralized opportunities for socializing, education, participation, exercise, and social integration.

The report states that despite these measures, acceptance of Article 23 is still considered problematic due to the personal scope of the Charter, in particular due to the reactions of the European Committee of Social Rights regarding Article 16 - unequal treatment of third-country nationals (i.e. non-EEA nationals) of the Contracting Parties to the Charter as concerns housing subsidies, and regarding Article 13§1 - waiting period for third-country nationals of Contracting Parties to the Charter when it comes to entitlement to social assistance.

Opinion of the European Committee of Social Rights

The ECSR recalls that Article 23 is the first human rights treaty provision to specifically protect the rights of older persons. The measures envisaged by this provision, by their objectives as much as by the means of implementing them, point towards a new and progressive notion of what life should be for older persons, obliging States Parties to devise and carry out coherent actions in the different areas covered.[43]

Article 23 overlaps with other provisions of the Charter which protect older persons as members of the general population, including Articles 13 (Right to social and medical assistance) and Article 16. Article 23 requires States Parties to make focused and planned provisions in accordance with the specific needs of older persons. This does not, however, mean that a finding of non-conformity with Article 16 and/or Article 23 would necessarily entail a finding of non-conformity with Article 23.[44]

The ECSR welcomes all measures taken by Austria to promote participation of and enhance the quality of life of older persons in line with the requirements of Article 23.

The ECSR has previously considered that there are no major obstacles to the acceptance by Austria of Article 23 of the Charter. **In the light of the information provided by the Government and the exchange with the Austrian authorities, the ECSR considers that the situation in respect of Article 23 is compatible with the requirements of this provision of the Charter. Given the importance that Austria attaches to promoting the social participation, independence and dignity of elderly persons and the many positive steps taken by the national authorities in this context, the ECSR encourages Austria to consider accepting this provision immediately.**

Article 24 The right to protection in cases of termination of employment

With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

> **a the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;**

[43] Conclusions XIII-3 (1995), Statement of Interpretation on Article 4 of the Additional Protocol (Article 23)
[44] Compare, for example, Conclusions 2021, Andorra, Articles 13 and 23; and Conclusions 2017, France, Articles 13 and 23.

b the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.

Situation in Austria

In the written information, the Austrian authorities confirm that the acceptance of this provision would require substantial changes in Austria because, under Austrian law, a specific reason must be given only in the case of dismissal without prior notice (Entlassung) of an employment relationship. The termination of an employment relationship (Kündigung) does not require specific reasons to be given (principle of free termination). Special protection against termination of employment only exists for specific groups of employees.
The report provides additional information on the situation in the public sector. In the case of contractual employees, an employment relationship that has lasted uninterruptedly for one year can only be terminated by stating a specified reason. Except for the trial period, the termination of a provisional employment relationship is only possible if a reason for termination exists. In addition, the second amendments to the Civil Servants Amendments Act transposed the EU Directive 2019/1158 on work-life balance into federal civil service law, specifying reasons and circumstances on the basis of which civil servant may not be dismissed, establishes an obligation for the employer to provide written reasons for termination upon request of the civil servant, and a shift of the burden of proof. State employees are subject to the applicable state civil service law.

Opinion of the European Committee of Social Rights

The ECSR recalls that all workers who have signed an employment contract are entitled to protection in the event of termination of employment. However, according to the Appendix, the State Party may exclude one or more of the following categories:

- workers engaged under a contract of employment for a specified period of time or a specified task.
- workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration. Exclusion of employees from protection against dismissal for six months during the probationary period is not considered reasonable if applied indiscriminately, regardless of the employee's qualification.[45] A one year period of exclusion has been considered to be manifestly unreasonable and therefore not in conformity with the Charter.[46]
- workers engaged on a casual basis for a short period.

This list is exhaustive.

The ECSR further recalls that Article 24 establishes in an exhaustive manner the valid grounds on which an employer can terminate an employment relationship. Two types of grounds are considered valid, namely on the one hand those connected with the capacity or conduct of the employee and on the other hand those based on the operational requirements of the enterprise (economic reasons).[47]

[45] Conclusions 2020, Malta, Conclusions 2012, Ireland; Conclusions 2012, Cyprus.
[46] Conclusions 2012, Ireland.
[47] Conclusions 2012, Statement of Interpretation on Article 24.

Any employee who considers themselves to have been dismissed without valid reason must have the right to appeal to an impartial body.[48] Workers dismissed without valid reason must be granted adequate compensation or other appropriate relief.[49]

The ECSR has previously found that the legal framework in Austria constitutes an obstacle to the acceptance of Article 24 (report on NAP 2016, 2021). In the light of the above information, **the ECSR considers that the current legal framework or the situation in practice is not fully compatible with the requirements of the Charter**. **However, the ECSR encourages the Government to take the steps necessary to enable acceptance of this provision as soon as possible**.

Article 26§2* The right to dignity at work

26§2 With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations:

> **2. to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.**

Appendix: It is understood that this article does not require that legislation be enacted by the Parties. It is understood that paragraph 2 does not cover sexual harassment.

Situation in Austria

The Austrian authorities confirmed the information on the measures taken to protect workers from moral harassment as described for the first and second report on the non-accepted provisions.

In addition, the report states that, in the framework of Austria's multiannual occupational health and safety strategies, the prevention of psychological stress, violence and bullying continues to be a significant focus area, with key stakeholders including social partners, labour inspectorates, and research institutions cooperating in the development and implementation of preventive measures.

It states further that a multi-year project entitled "Prevention of violence at work" has been developed by the Central Labour Inspectorate together with social partners, starting in 2022 and to be concluded with a final report in 2027/2028. In addition, campaigns conducted by the Labour Inspectorate for 2023–2024 treat violence as an occupational hazard, encompassing workplace bullying and sexual harassment. Furthermore, dedicated online resources, good practice guidelines and practical materials for employers and employees dealing with workplace violence and bullying are made accessible by the Labour Inspectorate and other stakeholder institutions. Labour inspectors receive continuous training in the area of violence prevention, and the topics of violence and bullying are regularly addressed during workplace inspections, in connection with the evaluation of psychological stress.

According to the report, the Equal Treatment Act bans harassment in the workplace based on gender, ethnic origin, religion or belief, age and sexual orientation and prohibits any

[48] Conclusions 2005, Cyprus, France, Estonia.
[49] Conclusions 2020, Albania, Türkiye.

harassment of employees by their employer or by third parties (e.g., colleagues or customers). In addition, employers are obliged to take appropriate remedial action in the event of harassment. It sets forth an entitlement to compensation by the employee both from the harasser and the employer, including non-material damages (at least EUR 1,000) as well as balancing the burden of proof.

The report points out, however, that the Equal Treatment Act does not stipulate a comprehensive obligation on the part of the employer to protect third parties from harassment. The Government is of the view that this provision might not fully comply with the ECSR's interpretation of the employer's obligation to take remedial action, which requires that employers must be held accountable for all cases of harassment that take place on their premises, regardless of whether it is an employee or a third party.

According to the report, in the event of bullying that is not considered harassment as defined by the Equal Treatment Act, compensation can only be claimed in accordance with the General Civil Code (ABGB). In that case, it has to be established who is at fault and the plaintiff has the burden of proof. The report points out that under the ECSR's interpretation, effective protection of those affected requires a shift in the burden of proof in favour of the victim, which would have massive effects on claims for damages under the ABGB.

The Länder also provide protection of personal rights of state employees. By way of example, the report refers to relevant legislation in Styria and Upper Austria containing explicit prohibition of bullying and foreseeing disciplinary action. In addition, conflict management counselling centres for state employees have been set up in Upper Austria which can be used anonymously, confidentially, and free of charge.

Opinion of the European Committee of Social Rights

The ECSR recalls that, irrespective of admitted or perceived grounds, harassment creating a hostile working environment characterized by the adoption towards one or more persons of persistent behaviours which may undermine their dignity or harm their career shall be prohibited and repressed in the same way as acts of discrimination. States Parties are required to take all necessary preventive and compensatory measures to protect individual workers against recurrent reprehensible or distinctly negative and offensive actions directed against them at the workplace or in relation to their work[50]. This also applies to online harassment.[51]

The Appendix to Article 26§2 specifies that States Parties have no obligation to enact legislation relating specifically to harassment, provided that the legal framework, as interpreted by the relevant national authorities ensures an effective protection in law and in practice against harassment in the workplace or in relation to work. This protection must include the right to appeal to an independent body in the event of harassment, the right to obtain adequate compensation and the right not to be retaliated against for upholding these rights.[52] Under civil law, effective protection of employees may require a shift in the burden of proof to a certain extent, making it possible for a court to find in favour of the victim on the basis of sufficient *prima facie* evidence and the personal conviction of the judge or judges.[53]

The employers should be liable when the harassment occurs in connection with work or on premises under their responsibility, even when it involves, as perpetrator or victim, a third

[50] Conclusions 2007,Statement of Interpretation on Article 26
[51] Conclusions 2022, statement of interpretation on Article 26.
[52] Conclusions 2007,Statement of Interpretation on Article 26 ; Conclusions 2005,Moldova.
[53] Conclusions 2007, Statement of Interpretation on Article 26§2.

person who is not employed by them such as independent contractors, self-employed workers visitors, or clients.[54]

This means that the employer must be obliged to take all possible measures to prevent the risk of harassment in the workplace, including any possible harassment risk involving third parties.[55]

The ECSR notes that Austria has a comprehensive framework in place to protect workers from all forms of moral harassment and welcomes all measures and positive actions taken by Austria in this respect, and that Austria has already accepted Article 26§1, which has the same requirements regarding compensation and the burden of proof as Article 26§2.

The ECSR further notes that Austria has ratified the Convention concerning the elimination of violence and harassment in the world of work (ILO Convention No. 190) on 11 September 2024. This Convention directly addresses the ECSR's requirement regarding employer liability for third parties. Accordingly, the ECSR considers that accepting Article 26§2 would not give rise to additional substantive obligations for Austria but would rather ensure coherence and consistency between Austria's commitments under the Charter and its broader international obligations.

The ECSR has previously found that there are no major obstacles to the acceptance by Austria of Article 26 § 2 of the Charter (reports on NAP 2016, 2021). **In the light of the information provided by the Government and the discussions with the Austrian authorities and the social partners during the country visit, the Committee considers that the situation in respect of Article 26§2 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.**

Article 27§3* The rights of workers with family responsibilities

27§3 With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

Situation in Austria

The report confirms the information provided for the first and confirmed for the second report on the non-accepted provisions (2016, 2021) on measures taken to protect workers against dismissal due to family responsibilities.

In addition, the report states that with Federal Law Gazette I No. 115/2023, the protection against dismissal for improper motives (Motivkündigungsschutz) was also extended to cases of leave for care (Pflegefreistellung) in accordance with Section 16 of the Annual Leave Act. Furthermore, it was legally stipulated that employees who have sought or taken leave for care, nursing care leave (Pflegekarenz) or part-time care leave (Pflegeteilzeit), or a reduction in normal working hours in accordance with §14 (1) Z 2 of the Employment Contract Law Adaptation Act (AVRAG) due to care obligations for close relatives that are not only temporary, can demand a justification from their employer in the event of termination. The employee must request the written justification within five calendar days of receiving the termination, otherwise they will lose their right to receive it. The employer must provide the written justification within

[54] Conclusions 2003, 2014 Sweden ; Conclusions 2014, 2022 Finland.
[55] Compare Conclusions 2022, Estonia.

five calendar days of receiving the request. The fact that a written justification has not been provided is irrelevant to the legal validity of the termination. The purpose of the obligation to provide reasons is to enable employees to assess whether a lawsuit before the labour and social court could be successful on the grounds of protection against dismissal for improper motives. Legal action may be taken against the dismissal regardless of whether a written statement of reasons was requested and what reasons the employer gives.

Federal Law Gazette I No. 115/2023 implemented Directive (EU) 2019/1158 on work-life balance for parents and family caregivers. As part of this amendment, a new Section 5a, which came into force on 1 November 2023 was introduced to the Austrian Equal Treatment Act (GlBG). According to this, discrimination within the meaning of Part I of the GlBG (Equal Treatment between Women and Men in Employment and Occupation) also exists if a person is discriminated against in connection with parental leave, parental part-time work, and changes to working hours in accordance with the Maternity Protection Act or the Paternity Leave Act, as well as paternity leave in accordance with the Paternity Leave Act; leave of absence for urgent family reasons preventing attendance at work, if illness or accident requires immediate presence; leave of care; and reduction of working hours, end-of-life care, care for seriously ill children, nursing care leave, and part-time care. This newly introduced protection against discrimination does not require that the discrimination is based on gender.

In the event of discriminatory termination by the employer, the affected person may challenge the termination in court. In this case, there is no claim for damages. However, the affected person may also assert the termination against themselves and sue for material and immaterial damages in court. The report raised the question whether this regulation complies with the requirements of the ECSR for compensation.

With regard to the public sector, in the case of contractual employees, an employment relationship that has lasted uninterruptedly for one year can only be terminated if a reason for termination exists. Family responsibilities are not included in the reasons which entitle the employer to terminate the employment relationship. Regarding the termination restrictions for female contract employees before and after giving birth, the same provisions as for the private sector are applicable.

In the case of civil servants, there is no provision for the termination of the employment relationship, except for provisional employment relationships. Except for the trial period, the termination of a provisional employment relationship is only possible if a reason for termination exists. Therefore, family responsibilities are no reason for the termination of the employment relationship.

The relevant sections of the Maternity Protection Act and the Parental Leave for Fathers Act (Väter-Karenzgesetz – VKG) also apply for civil servants and for contractual employees accordingly as well as the jurisdiction to notice protection out of certain motives. In addition, there is a special provision for civil servants and contractual employees. In contrast to the private sector, during the special protection against termination during pregnancy (during pregnancy and a period of four months after the baby is born), an employment relationship of a civil servant or a contractual employee cannot be legally terminated, even with the consent of the court. The same applies to the duration of a special protection against termination during maternity or paternity leave or part-time employment.

For regulations in the Länder, the Government refers, by way of example, to the legal frameworks in Styria and Vorarlberg. In Styria, family obligations do not constitute grounds for

dismissal under the state's employment law. In addition, the special protective provisions of the Styrian Maternity Protection and Parental Leave Act apply.

In Vorarlberg, persons who take parental leave to care for a child may not be dismissed. Similarly, persons on family hospice leave enjoy protection against dismissal until four weeks after the end of their leave. The State's Anti-Discrimination Act (ADG) stipulates, among other things, that discrimination on the basis of gender, in particular with regard to marital status or whether someone has children, is prohibited. If an employment relationship has been terminated or ended prematurely by the employer in violation of the prohibition of discrimination, the employee concerned may assert the invalidity of the termination (Section 9 (4) ADG). The fulfilment of other family obligations is not covered by the protection against dismissal provided by the State Civil Service Act or the Anti-Discrimination Act.

Opinion of the European Committee of Social Rights

The ECSR recalls that family responsibilities must not constitute a valid ground for termination of employment. In this context, the notion of "family responsibilities" is to be understood as obligations in relation to dependent children as well as other members of the immediate family who need care and support (for instance elderly parents).[56] The purpose of Article 27§3 is to prevent these obligations from restricting preparation for and access to working life, exercise of an occupation and career advancement for workers with family responsibilities.[57]
Workers dismissed on such illegal grounds must be afforded the same level of protection as that afforded in other cases of discriminatory dismissal under Article 1§2 of the Charter,[58] which Austria has accepted.

In particular, courts or other competent bodies should be able to order reinstatement of an employee unlawfully dismissed and/or to award a level of compensation that is sufficient both to deter the employer and proportionate the damage suffered by the victim.[59] Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive are proscribed.[60] If there is a ceiling on compensation for pecuniary damage, the victim must be able to seek unlimited compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation), and the courts competent for awarding compensation for pecuniary and non-pecuniary damage must decide within a reasonable time.[61] The ECSR has previously found a situation that is compatible with Article 27§3, where employees who have been declared to have been wrongfully dismissed by a judge can return to work and, if they choose not to, the court will grant them compensation for any harm caused by the unlawful dismissal.[62]

The ECSR has previously found that there are no major obstacles to the acceptance by Austria of Article 27§3 (reports on NAP 2016, 2021). Notably in light of the implementation by Austria of Directive (EU) 2019/1158 on work-life balance for parents and family caregivers through the introduction of 5a GlBG in 2023, the ECSR considers that accepting Article 27§3 would not

[56] Conclusions 2003, Statement of Interpretation on Article 27§3; see e.g Conclusions 2003, Bulgaria
[57] Conclusions 2003, Statement of Interpretation on Article 27§3; see e.g Conclusions 2003, Bulgaria
[58] Conclusions 2007, Finland
[59] Conclusions 2007, Finland
[60] Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3.
[61] Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3, see also Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No.158/2017, decision on the merits of 11 September 2019, §96
[62] Conclusions 2019 - France - Article 27-3

impose any new constraints on the social partners but would rather reflect obligations already firmly embedded in European Union Law and Austria's legal order.

On the basis of the information at its disposition and following the discussions held during the meeting, the ECSR considers that the situation in respect of Article 27§3 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.

Article 29* The right to information and consultation in collective redundancy procedures

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

Appendix: For the purpose of the application of this article, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

Situation in Austria

According to the report, this provision was not ratified in 2011 because it was only considered to have been complied with by the private sector. As Council Directive 98/59/EC on collective redundancies does not apply to workers employed in the public administration or at institutions under public law, no corresponding steps were taken towards its transposition in legislation applicable to public sector employees. The report recalls that in its first report on non-accepted provisions, the ECSR noted that in the public sector there is an individual procedure in place but not on "collective redundancy", therefore individual procedures apply also to collective ones.

The report states that another reason for non-acceptance of this provision is the following: According to the case law of the ECSR, consultation rights must be accompanied by guarantees that they can be exercised in practice. Where employers fail to fulfil their obligations, there must be at least some possibility of recourse to administrative or judicial proceedings before the redundancies are made to ensure that they are not put into effect before the consultation requirement is met.

Provision must be made for sanctions after the event, and these must be effective, i.e. sufficiently deterrent for employers. Section 109 of the ArbVG provides that, in the event of late information to the works council, the arbitration board must additionally compensate the disadvantages that employees have suffered as a result of the late information when drawing up the social plan. According to Section 160 (1) ArbVG, the administrative fine is € 2,180. The Government raised the question whether this provision is sufficiently deterrent against the background of the ECSR case law.

During the discussion, the Austrian authorities also referred to the situation in enterprises where no works council had been set up, and where there was no provision of ad-hoc representatives.

Opinion of the European Committee of Social Rights

The ECSR recalls that Article 29 requires that States Parties establish an information and consultation procedure which should precede the process of collective redundancies. Its provisions are directed – on the one hand – towards ensuring that workers are made aware of reasons and scale of planned redundancies, and – on the other hand – towards ensuring that the position of workers is taken into account when their employer is planning collective redundancies, in particular as regards the scope, mode and manner of such redundancies and the extent to which their consequences can be avoided, limited and/or mitigated.[63]

When employers implement information and consultation procedures preceding collective redundancies, employees should be represented by persons acting on behalf of all workers employed in the workplace. Such representatives may be either bodies operating in the employer's enterprise (for example, trade unions or workers' councils) or ad hoc representatives appointed to take part in these processes. National law should ensure that employees may appoint representatives even when they are not otherwise represented in the context of a particular workplace by a trade union or other representative body. Such representatives should represent all employees who may be potentially subject to collective redundancies and should not suffer any negative consequences because of their activities in this regard.[64]

Consultation rights must be accompanied by guarantees that they can be exercised in practice.[65] Where employers fail to fulfil their obligations, there must be at least some possibility of recourse to administrative or judicial proceedings before the redundancies are made to ensure that they are not put into effect before the consultation requirement is met.[66] Provision must be made for sanctions after the event, and these must be effective, i.e. a sufficient deterrent for employers.[67] [The right of individual employees to contest the lawfulness of their dismissal is examined under Article 24 of the Charter.[68]]
The ECSR notes from the exchange with the Austrian authorities that while workers have the right to establish works councils, no sanctions apply in case this is not the case, and no legal provisions exist in such case for the appointment of ad-hoc representatives to take part in the consultation process.

In the light of the above information, **the ECSR considers that further information would be necessary to assess whether the situation in law and practice is compatible with the requirements of the Charter. In particular, it would need clarification on:**

- **any preventive measures to ensure that redundancies do not take effect until the employers have met their obligation to inform and consult employee representatives;**
- **the situation in law and in practice in situations of collective redundancies in enterprises which do not have a works council.**

In the meantime, ECSR encourages the Government to pursue its efforts and to consider accepting Article 29 of the Charter as soon as possible.

[63] Conclusions 2014 - Statement of interpretation - Article 29
[64] Conclusions 2014 - Statement of interpretation - Article 29
[65] Conclusions 2014, Georgia.
[66] Conclusions 2003, 2007, 2010 Sweden; conclusions 2022 Azerbaijan, North Macedonia, Serbia.
[67] Conclusions 2003 - Sweden
[68] Conclusions 2003 Statement of Interpretation on Article 29, Conclusions 2025, Germany

Article 30* The right to protection against poverty and social exclusion

30 With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;

b. to review these measures with a view to their adaptation if necessary.

Situation in Austria

According to the written information provided by the Government, the areas addressed by Article 30 are within the competence of the *Länder* and/or the local stakeholders. Therefore, a consensus between all these stakeholders is required.

The report emphasizes that combating poverty and social exclusion are matters of particular concern to Austria's Federal Government, which is committed to the principle of poverty reduction through the European Pillar of Social Rights and takes its responsibility to create opportunities for an independent and self-determined life seriously. This is also reflected in the current government program 2025-2029. A special focus is drawn on combating child poverty, as avoiding poverty as early as possible and promoting social mobility are important building blocks for guaranteeing equal development opportunities from the start, as well as for preventing the risk of poverty and social exclusion later in life. Generally, Austria has a very well-developed welfare state that provides comprehensive protection against social risks and has a strong poverty-reducing effect.

The report states that despite these measures, acceptance of Article 30 is still considered problematic due to the personal scope of the Charter, in particular due to the reactions of the European Committee of Social Rights regarding Article 13§1 - waiting period for third-country nationals of Contracting Parties to the Charter when it comes to entitlement to social assistance.

In their written comments, Caritas Austria expressed concerns regarding the adequacy of Austria's social welfare system to guarantee a decent standard of living and prevent poverty in view of the cost-of-living crises, disparities between the Länder in benefit levels and regulations, and high levels of child poverty.

Opinion of the European Committee of Social Rights

The ECSR recalls that Article 30 requires States to adopt an overall and coordinated approach, which should consist of an analytical framework, a set of priorities and measures to prevent and remove obstacles to access fundamental social rights.[69] Monitoring mechanisms should be in place and involve all relevant actors, including civil society and persons affected by poverty and social exclusion. This approach must link and integrate policies in a consistent way, moving beyond a merely sectoral or target group approach.[70]

[69] Conclusions 2013 - Statement of interpretation - Article 30
[70] Statement on Covid-19 and social rights adopted on 24 March 2021.

The measures taken must promote and remove obstacles to access to fundamental social rights, in particular employment, housing, training, education, culture and social and medical assistance, addressing the multidimensional phenomena of poverty and social exclusion. The measures should strengthen access to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights, and where necessary, specifically target the most vulnerable groups and regions.[71]

To assess national situations, the ECSR uses different indicators. One of the key indicators in this respect is the level of resources (including any increase in this level) that have been "allocated to attain the objectives of the strategy", in so far as "adequate resources are an essential element to enable people to become self-sufficient"[72]. In addition, the main indicator used to measure poverty is the relative poverty rate (this corresponds to the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income). The at-risk-of-poverty rate before and after social transfers (Eurostat) is also used as a comparative value to assess national situations, without prejudice to the use of other suitable parameters that are taken into account by national anti-poverty strategies or plans.[73]

When assessing the respect of Article 30, the ECSR also takes into consideration the national measures or practices which fall within the scope of other substantive provisions of the Charter, including the right to social and medical assistance under Article 13. **This approach does not, however, mean that a conclusion of non-conformity or a decision of violation of one or several of these provisions automatically or necessarily lead to a violation of Article 30.[74]**

The ECSR welcomes Austria's continued efforts to combat poverty. The ECSR has previously found that there were no major obstacles to the acceptance by Austria of Article 30 (first and second report on NAP**). In the light of the information provided by the Government and the discussions with the Austrian authorities, the ECSR considers that the situation in respect of Article 30 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.**

Article 31* The right to housing

31§1 With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1 to promote access to housing of an adequate standard;

2 to prevent and reduce homelessness with a view to its gradual elimination;

3 to make the price of housing accessible to those without adequate resources.

---

[71] Conclusions 2003, Statement of interpretation on Article 30, see e.g. Conclusions 2003, France
[72] Statement of interpretation on Article 30, Conclusions 2005.
[73] Conclusions 2013 - Statement of interpretation - Article 30
[74] *EUROCEF v. France*, Complaint No. 82/2012; decision on the merits of 19 March 2013, para. 59. Compare, for example Conclusions 2021, Norway, and 2017, Finland, where the ECSR found conformity with Article 30 in spite of a non-conformity with Article 13§1

Situation in Austria

The report states that the Austrian Federal Government has already committed – through the signing of the Lisbon Declaration on the European Platform on Combatting Homelessness in June 2021 – to work towards ending homelessness by 2030. In its Government Programme 2025-2029, the Federal Government has substantively committed to the objectives enshrined in Article 31, in particular with regard to ensuring affordable rents, strengthening housing security, and combatting housing exclusion and homelessness. The Government program contains a commitment to the "Housing First" principle, which is to be further advanced. The programmes "WOHNSCHIRM Miete" and "WOHNSCHIRM Housing First" contribute to this, in addition to the existing support services provided by the federal states, by preventing evictions on the one hand and by combating homelessness in accordance with the Housing First approach on the other. Nationals of other contracting states are also able to make use of these support services. The programme is currently limited until the end of 2026; an extension is presently under political coordination.

In this context, Austria continues to be committed to the creation of sufficient affordable housing. Austria's policy in combating homelessness has often been highlighted as a best-practice example at an international and European level. Numerous low-threshold projects to combat homelessness, often carried out in cooperation with NGOs, in combination with subsidised housing, which is of great importance in Austria, constitute a successful mix of measures. The Government is of the view that, as a result, the situation in Austria is mostly a notably better one than in other (European) countries.

Specific information is, by way of example, provided for measures addressing poverty and homelessness in the Länder of Styria, Upper Austria and Lower Austria.

In their written submissions, Caritas Austria acknowledged government programme, expressed concerns about disparities in housing support across the Länder, and called for the Housing First approach to be established sustainably across Austria.

Opinion of the European Committee of Social Rights

The ECSR recalls that under Article 31§1 of the Charter, States Parties shall guarantee to everyone the right to housing and shall promote access to adequate housing. States must take the legal and practical measures which are necessary and adequate to the goal of the effective protection of the right in question. They enjoy a margin of appreciation in determining the steps to be taken to ensure compliance with the Charter, in particular as regards the balance to be struck between the general interest and the interest of a specific group and the choices which must be made in terms of priorities and resources[75].

Positive measures in the field of housing must be adopted in respect of persons in vulnerable situations, such as low-income persons, unemployed persons, single parent households, young persons, and persons with disabilities including those with mental health problems.[76]

Under Article 31§2, States Parties have to take measures to reduce homelessness with a view to gradually eliminating it. This requires States Parties to introduce a housing policy for all

[75] European Roma and Travellers Forum (ERTF) v. France, Complaint No. 64/2011, decision on the merits of 24 January 2012, §95.
[76] Conclusions 2003, Italy, Conclusions 2019, Greece.

disadvantaged groups of people to ensure access to social housing and housing allowances as well as procedural safeguards to limit the risk of eviction.[77]

Article 31§3 requires that an adequate supply of affordable housing must be ensured for persons with limited resources. Though different in personal and material scope, Article 31 partially overlaps with Article 16, which addresses housing in the context of securing the right of families to social, legal and economic protection, and which Austria has accepted. The notions of adequate housing and forced eviction are identical under Articles 16 and 31.[78]

The ECSR takes note of Austria's strong commitment to ensuring affordable rents, strengthening housing security, and combatting housing exclusion and homelessness, which is translated into effective policy measures both at the federal level and at the level of the Länder.

The ECSR recalls its previous assessment (reports on NAP 2016 and 2021) that there are no major obstacles to the acceptance by Austria of Article 31§2 of the Charter, but that the requirement of a legitimate stay of 5 years in Austria for citizens of other States Parties to the Charter outside the EEA to be eligible for the housing allowance might raise problems of conformity under Articles 31§1 and 31§3 of the Charter. The ECSR notes from all the information at its disposal, including from the exchange with the Government and with the social partners, that this situation persists in several Länder, and that one Land has recently introduced even more restrictive requirements.

In the light of the above information and following the discussion with the Austrian authorities and social partners, the ECSR considers that the situation in respect of Article 31§2 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.

As regards Articles 31§§1 and 3, the ECSR considers that the situation is not fully compatible with the requirements of Articles 31§§1 and 3 of the Charter. However, given Austria's strong commitment and progress towards fulfilling all three objectives of Article 31, and bearing in mind that Austria is already bound by Article 16, where it is confronted with the same issues regarding residency requirements[79], the ECSR encourages the Government to take the steps necessary to enable acceptance of Articles 31§§1 and 3 as soon as possible.

[77] Conclusions 2005, Lithuania.
[78] European Roma Rights Center (ERRC) v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, §17.
[79] Conclusions 2023 - Austria - Article 16.

Appendix I - Programme "the European Social Charter and Austria", 27-28 April 2026

PROGRAMME

The European Social Charter in Austria

organised by
the Department of Social Rights, DG I
Council of Europe
and
the Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection
27- 28 April 2026

1. **Bilateral meeting with the Federal Minister for Labour, Social Affairs, Health, Care and Consumer Protection**
2. **2nd Meeting on the non-accepted provisions of the European Social Charter**
3. **Meeting with the Austrian Parliament**
4. **Meeting with the Austrian Ombudsmen**
5. **Meeting with social partners**
6. **Meeting with civil society organisations**

This programme is organised within the framework of the procedure provided for by Article 22 of the 1961 Charter on "non-accepted provisions". It will consist of an exchange of views and information on the provisions not accepted by Austria with a view to evaluating the prospects for acceptance of additional provisions. Furthermore, there will be an exchange of views on the system of collective complaints, which has not yet been accepted by Austria.

DAY 1: 27 April 2026

Venue:

Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection

Josef Hesoun Saal (Saal VI), Stubenring 1, 1010 Vienna, Austria

Working languages: English, German

Moderator: Mr. Martin GRUBER-RISAK, Director General – Labour Law and Central Labour Inspectorate, Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection

8.15 Arrival of the ECSR/ CoE Delegation at the Ministry

08:30 – 9.00 Bilateral meeting

with Ms Korinna SCHUMANN, Federal Minister for Labour, Social Affairs, Health, Care and Consumer Protection

9.00 – 9.30 Registration and Welcome Coffee

9.30 – 9.40 Opening of the meeting

9.40 – 9.50 Austria and the European Social Charter

Questions and answers

9.50 – 10.10 Article 6 The right to bargain collectively

§4

Situation in law and in practice in Austria. Prospects for acceptance.

Comments in the light of the Committee's conclusions and decisions

Discussion

10.10 –10.35 Article 8 The right of employed women to protection and maternity

§2

Situation in law and in practice in Austria. Prospects for acceptance.

Comments in the light of the Committee's conclusions and decisions

10.35 – 11.00 Article 26 The right to dignity at work

§2

Situation in law and in practice in Austria. Prospects for acceptance.

Comments in the light of the Committee's conclusions and decisions

Discussion

11.00 -11.15 Coffee break

11.15–11.35 Article 27 The right of workers with family responsibilities to equal opportunities and equal treatment

§§ 3

Situation in law and in practice in Austria. Prospects for acceptance.

Comments in the light of the Committee's conclusions and decisions

Discussion

11.35- 12.00 Article 29 The right to information and consultation in collective redundancy procedures

§ 2

Situation in law and in practice in Austria. Prospects for acceptance.

Comments in the light of the Committee's conclusions and decisions

Discussion

12.00 –13.30 Lunch

13.30 –13.55 Article 15 The right of persons with disabilities to independence, social integration and participation in the life of the community

§2

Situation in law and in practice in Austria. Prospects for acceptance.

Comments in the light of the Committee's conclusions and decisions

Discussion

13.55 –14.20 Article 19 The right of migrant workers and their families to protection and assistance

§§ (4)(a) and (b), and (11)

Situation in law and in practice in Austria. Prospects for acceptance.

Comments in the light of the Committee's conclusions and decisions

Discussion

14.20 –14.40 Article 7 The right of children and young persons to protection

§6

Situation in law and in practice in Austria. Prospects for acceptance.

Comments in the light of the Committee's conclusions and decisions

Discussion

14.40–15.10 Article 23 The right of elderly persons to social, legal and economic protection

Situation in law and in practice in Austria. Prospects for acceptance.

Comments in the light of the Committee's conclusions and decisions

15.10- 15.40 Article 30 The right to protection against poverty and social exclusion

Situation in law and in practice in Austria. Prospects for acceptance.

Comments in the light of the Committee's conclusions and decisions

Discussion

15.40 –16.00 Article 31 The right to housing

§2

Situation in law and in practice in Austria. Prospects for acceptance.

16.00 –16.45 The collective complaints procedure explained

Discussion

16.45 –17.00 Conclusions and follow-up of the meeting:

- European Committee of Social Rights
- Department of Social Rights
- Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection

DAY 2: 28 April 2026

Working languages: English and German (only at the Parliament)

8.45 Arrival of the CoE Delegation at the Parliament main entrance

Working languages: English and German (consecutive translation)

Venue *Dr. Karl Renner-Ring 3, 1010 Wien, Austria, Local 8 (Eugenie Schwarzwald)*

9.00–10.30 Meeting with the Committee on Social Affairs of the Austrian National Council

11.00 -11.45 Meeting with civil society

Venue *Singerstrasse 17, A – 1010 Vienna*

Brief presentation of the European Social Charter system, Reporting procedure, Collective complaints procedure, Non-accepted provisions procedure

- Austria and the European Social Charter
- How civil society can engage with the Charter

Discussion

12.00 -13.00 **Lunch**

13.00 -14.15 **Meeting with the Austrian Ombudsman Board Mr Bernard ACHITZ and Ms. Ulrike GRIESHOFER, the International Ombudsmen**

Venue *Singerstrasse 17, A – 1010 Vienna*

Brief presentation of the European Social Charter system, Reporting procedure, Collective complaints procedure, Non-accepted provisions procedure

- Austria and the European Social Charter
- How NHHRI can engage with the Charter
- The Ombudsmen Office current work on social rights in general and on the Charter in particular
  Discussion

14.45 – 16.30 **Meeting with Social partners**

Venue *Room: B 4 2, Wirtschaftskammer Österreich, Wiedner Hauptstraße 63, 1040 Wien*

Brief presentation of the European Social Charter system, Reporting procedure, Collective complaints procedure, Non-accepted provisions procedure

- Austria and the European Social Charter
- How social partners can engage with the Charter

Discussion

Appendix II - Factsheet – Austria and the European Social Charter



Factsheet – Austria and the European Social Charter

- Updated version still to be added -

Appendix III: CHIŞINĂU DECLARATION

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

19 March 2026

High Level Conference on Social Rights – the European Social Charter

(Chişinău, Republic of Moldova, 18-19 March 2026)

CHIŞINĂU DECLARATION

1. The Council of Europe member States gathered in Chișinău recognise that social rights as enshrined notably in the European Social Charter are under unprecedented pressure as Europe grapples with overlapping and mutually reinforcing societal crises. Democratic stability and security are directly impacted by rising socio-economic inequalities and the cost-of-living crisis. These factors, as well as the need to increase defence spending resulting from the unstable international situation, including Russia's war of aggression against Ukraine, have placed burdens on governments, institutions and communities already grappling with climate change, the health challenges arising from the Covid-19 pandemic and demographic change.

2. The Reykjavík Declaration (2023) and the Vilnius Declaration (2024) reinforced the political commitment of the Council of Europe member States to social rights, as guaranteed by the European Social Charter, a primary instrument for achieving social justice. The Vilnius Declaration welcomed the decisions taken by the Committee of Ministers of the Council of Europe to improve the implementation of the Charter system and its monitoring procedures.

3. In this context the member States reiterate their commitment to recognised principles on social rights and social justice enacted by other international or regional organisations including the United Nations, the International Labour Organisation (ILO) and, where applicable, the European Union (EU). They acknowledge the alignment of these principles with the Doha Declaration (2025).

4. Difficulty to guarantee social rights and deliver social justice is a major driver of distrust in public authorities and democratic institutions. The member States welcome the initiative on a New Democratic Pact for Europe (the Pact). With social justice as a key objective, the Pact offers an opportunity for renewed commitments, integrated solutions across sectors and innovative ways to support social justice. As previously stated by the Committee of Ministers, social justice denotes a society based on equality and solidarity, which meets fundamental human needs, reduces inequalities through fair redistribution mechanisms and secures collectively the conditions necessary for every individual to develop and use their skills.

5. Investing in social rights is both a moral imperative and a strategic choice for building sustainable, resilient, just and inclusive societies. Such investment reduces inequality, fosters social cohesion and inter-generational justice, and enhances democratic stability and security. At the same time, it reinforces trust in institutions and public authorities at all levels of governance. Investing in social rights means investing in the future of democracy itself. Democratic stability and security can only be achieved where social rights are adequately protected.

6. On the occasion of this High-Level Conference, member States and participants at the Conference:

a. reaffirm their full commitment to the protection and implementation of social rights as guaranteed by the European Social Charter system and encourage member States to consider ratifying the revised European Social Charter (1996), while keeping under review the possibilities for accepting additional commitments, including the additional Protocol (1995) providing for a system of collective complaints;

b. recognise that ensuring social rights as enshrined notably in the European Social Charter is essential to countering growing threats to democracy driven in particular by fears about economic instability, declining working and living standards and limited opportunities;

c. recognise that combatting poverty and social exclusion is a question of human dignity. The cost-of-living crisis situation remains critical for millions of people, in particular the most vulnerable groups who are forced to spend a larger proportion of their income on essentials. This crisis disproportionately affected – and still affects - low-income households and particularly vulnerable population groups such as single-parent families, children, youth, persons with disabilities, older persons and Roma and Travellers;

d. underline the importance of addressing emerging labour rights challenges in Europe, including those arising from digitalisation, artificial intelligence and climate and demographic changes;

e. acknowledge that effective social dialogue, freedom of association and collective bargaining are indispensable for a just, inclusive and sustainable future of work;

f. recognise the role played by the Charter's monitoring body, the European Committee of Social Rights, and the follow-up and other work undertaken by the Governmental Committee of the European Social Charter and the European Code of Social Security;

g. recognise the importance of strengthening visibility, understanding, awareness and ownership of the Charter, in particular at local level where social rights are implemented;

h. underline the importance of implementation of the Committee of Ministers 2022 reform package and the need to take into account reviews and evaluations thereof;

i. underline the need for better co-operation within the Council of Europe to promote coordinated action on social rights including between the Charter treaty bodies, the Parliamentary Assembly, the Congress of Local and Regional Authorities, the Commissioner for Human Rights, the Conference of INGOs, other monitoring bodies and relevant intergovernmental committees;

j. recognise the importance of institutional dialogue and synergies between the Council of Europe, the United Nations, the ILO and the EU in order to ensure coherence and complementarity.

7. In view of the above, member States:

a. commit, where necessary, to adopt laws and policies which can ensure equal enjoyment of social rights and equitable access to life/work opportunities to bring about a stronger, more cohesive, more democratic and socially just Europe, in which the enjoyment of the rights enshrined notably in the European Social Charter is effectively guaranteed, in law and in practice, while preserving an adequate balance between rights and obligations and strengthening incentives for labour market participation;
b. undertake, with due consideration of national systems and practices, to ensure that current economic, demographic and technological transformations in labour markets place workers at the centre, guided by respect for social rights, including decent working conditions, dignity in the workplace, fair remuneration, access to social protection and effective social dialogue;

c. undertake to adopt gender-responsive economic and social policies addressing the persistent social rights shortfalls experienced by women, including those resulting from the gender pay and pensions gaps, women's over-representation in precarious jobs and their disproportionate burden of unpaid household and care work;

d. undertake to strengthen child and youth perspectives and participation in strategies and measures to realise social rights, including those related to eradicating poverty and child labour and securing equal, inclusive societies, by establishing institutionalised, regular and meaningful participation mechanisms and advisory structures;

e. undertake to adopt measures to ensure the right to active social citizenship of older persons and commit to eliminating ageism and age discrimination, as well as to taking the necessary steps to ensure older persons' social protection, including their participation in society and ability to lead independent lives;

f. undertake to ensure the effective exercise of the rights of persons with disabilities to independence, social inclusion and participation in community life by taking the steps required to ensure that quality services are genuinely available and accessible to all persons with disabilities;

g. commit to take appropriate measures to give effect to the conclusions and decisions of the European Committee of Social Rights, including on the basis of the follow-up measures proposed by the Governmental Committee of the European Social Charter and the European Code of Social Security, taking into account national circumstances and realities;

h. resolve to promote and strengthen enhanced dialogue, conducted in a constructive spirit, between the European Committee of Social Rights, the Governmental Committee of the European Social Charter and the European Code of Social Security, competent national and local and regional authorities as well as other stakeholders, with a view to the shared objective of improving the achievement of social rights in practice;

i. resolve to fully engage with and support Council of Europe co-operation activities in the relevant fields and to explore financing options provided by the Council of Europe Development Bank (CEB) to improve the implementation of the Charter at national level;

j. resolve to maintain political engagement, through High-Level Conferences on social rights and the European Social Charter in order to monitor progress, share best practices, and encourage further treaty commitments.

8. Participants thank the authorities of the Republic of Moldova for the perfect organisation of the High-Level Conference and their gracious hospitality, and welcome the invitation by Portugal to hold the 3rd High-Level conference during their Presidency of the Committee of Ministers in 2029.

Appendix IV - Digest of the case law of the ECSR

Link: **DIGEST OF THE CASE LAW OF THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS**