



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

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

THE SLOVAK REPUBLIC**

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I. OVERVIEW AND EXECUTIVE SUMMARY

1. Overview of the adjusted procedure on the non-accepted provisions of the European Social Charter

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, Part III, 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 of the treaty.

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 (ETS No. 35). 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.

The Charter initially involved traditional reporting by States Parties. In 2002, following the Decision of the Committee of Ministers², it shifted to periodic reporting every five years on nonaccepted provisions of the revised Charter.

Noting that the exercise was not yielding the expected results, considering the objective of strengthening the impact of the European Social Charter, the Committee of Ministers decided in December 2019 to invite “the ECSR to make full use of the opportunities for dialogue offered by Article 22 and to include in this exercise a dialogue with the member States that are not yet Party to the revised Charter, with a view to encouraging them to ratify it”.³

On this basis, in September 2022, the European Committee of Social Rights (ECSR) decided to henceforth implement the procedure on non-accepted provisions in respect of all States Parties to either Charter, in a reinforced manner. The procedure now provides for submission of written information by States Parties in accordance with a pre-established calendar, and for additional bilateral meetings when it is deemed to represent an added value. The written information

¹ The opening paragraph of Part I reads “The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised”, followed by the heading of all rights contemplated by the European Social Charter. Part III, Article A, provides that “each of the Parties undertakes [...] to consider Part I of the Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part”, followed by the rules on the choices available as regards provisions that Parties can declare to be bound by and which determine the modalities of monitoring under Part IV of the Charter. (See [CM\(2022\)196-final](#))

² [Committee of Ministers Decision of 11 December 2002](#)

³ [Committee of Ministers Decision of 11 December 2019](#)

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 shall be given the possibility to provide comments within three months after receipt of the written information.

In this context, the ECSR took the opportunity to underline that the objective of improving the implementation of social rights as a whole also entails a progressive strengthening of member States' commitments under the Charter. As implied by the Committee of Ministers in its decision of 15 March 2023, non-acceptance of provisions should be an exception, not the rule. Moreover, the binding scope of the accepted provisions relates to the modalities and extent of monitoring under the Charter, which does not detract from their nature as human rights. Consistent with the tenet that social rights are human rights and therefore universal, indivisible and interdependent, the ECSR emphasised that the ultimate goal is for the member States to commit to all the provisions of the Charter and that not accepting certain provisions should on no account be seen as a permanent state of affairs.

2. The situation of the Slovak Republic in the context of the non-accepted provisions of the European Social Charter

The Slovak Republic ratified the revised Charter on 14 September 2009, accepting 87 of its 98 paragraphs. It has currently not accepted the following 11 provisions: Article 13§4, Article 15§3, Article 18§3, Article 19§§2, 3, 4(c), 8, 10, and 12 and Article 31§§1-3. The Slovak Republic signed the Additional Protocol providing for a system of collective complaints on 18 November 1999 but has not yet accepted the procedure.

The procedure provided for by Article 22 of the 1961 Charter was applied to the Slovak Republic for the first time in 2014.

With a view to carrying out the procedure for the first time in 2014 and the second time in 2019, the authorities of the Slovak Republic were invited to provide written information on the non-accepted provisions of the Charter.⁴

After examining the written information provided by the Slovak Republic in 2014 and 2019, the Committee on these two occasions reached the opinion that the Slovak Republic could consider acceptance of Articles 18§3, 19§4 (c) and 31§2; that practical co-operation should be developed on a needs basis that could be sufficient to ensure conformity with Article 19§3 of the Charter and thus allow acceptance of this provision; that Article 19§12 could possibly be accepted by the Slovak Republic subject to further analysis by the Committee, in particular as regards the situation of adults with regard to mother-tongue teaching; that further information on the current legal situation and practice related to Articles 13§4 and 19§2 was needed to allow the Committee to take a view on the possibility of accepting these provisions of the Charter by the Slovak Republic; that minor adjustments to the law and practice would be sufficient to remove obstacles to acceptance of Articles 19§8, 19§10, 31§1, 31§2 and 31§3. In addition, the Committee was not in a position to assess the situation regarding Article 15§3, as no information had been provided by the Government of the Slovak Republic.

⁴ See the 1st and 2nd reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovak Republic on the following address: <https://www.coe.int/t/t/web/european-social-charter/slovak-republic-and-the-european-social-charter>

3. Current Examination

This third examination of the non-accepted provisions is based on the adjusted procedure for non-accepted provisions. In terms of this procedure, the Slovak Republic was invited on **7 November 2023** to submit written information before **31 March 2024**. The requested written information was registered on **17 April 2024**, and it was subsequently published on the CoE website.

After examining the written information provided by the Slovak Republic, the ECSR is of the view that there are no major obstacles to the acceptance of Article 18§3. The Committee is also of the view that there are still certain obstacles to the acceptance of Article 19§3, 8 and 10, as well as Article 31§1-3. As regards Article 19§2, 4(c) and 12, more information will be needed for the Committee to form an opinion. Finally, the Slovak Republic submitted no information on Article 15§3, and as a result, the Committee is not able to form an opinion on this point.

However, the ECSR encourages the Government to remove all the obstacles identified without delay and recalls that by accepting the remaining provisions of Articles 18 and 19 (facilitating and liberalising regulations), the Slovak Republic would consolidate the respect for the rights of migrant workers and their families to protection and assistance, thus tackling discrimination and further promoting social inclusion and integration. In addition, the Committee underlines that the right to housing (Article 31) is a critical right for being able to lead a decent life and a safeguard against poverty and social exclusion.

Furthermore, the ECSR invites the Slovak Republic to consider accepting the collective complaints procedure by making the declaration foreseen by Article D§2 of the revised Charter. The ECSR underlines that the collective complaints procedure is a good governance tool intimately linked to core democratic values and the rule of law. Full-fledged participation of the social partners and civil society, including the possibility for them to seek legal remedies for real or perceived injustices, is a defining characteristic of any functioning democracy. The ECSR considers that it is the duty of a democratic state governed by the rule of law to embrace the good governance tools available to it in order to access the best possible information to inspire its decision-making.

The Committee remains at the disposal of the Government for enhanced dialogue⁵ on the Charter provisions and the relevant case law.

It invites Slovak Republic 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.

⁵ In the light of the latest 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. ([CM\(2022\)114 final](#) - Implementation of the Report on Improving the European Social Charter system)

A table showing the provisions of the revised Charter accepted by Slovak Republic appears in Appendix I.

The next examination of the provisions not yet accepted by Slovak Republic will take place in 2029.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

Article 13§4 - The right to social and medical assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

4 to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.

Appendix: Governments not Parties to the European Convention on Social and Medical Assistance may ratify the Charter in respect of this paragraph provided that they grant to nationals of other Parties a treatment which is in conformity with the provisions of the said convention.⁶

Situation in Slovak Republic

In the written information submitted by the Government, there is no indication of new developments regarding the situation with respect to Article 13§4. The Government reproduces information provided in previous reports. As noted in previous reports of the ECSR on non-accepted provisions,⁷ social assistance is provided only to a selected group of foreigners, by reference to Section 3 paragraph 2 of Act No. 448/2008 Coll. on Social Services and on amendment of Act No. 455/1991 Coll. (Trade-licensing Act) which entered into force on 1 January 2009. The Government also invokes that the Slovak Republic is not bound by the European Convention on Social and Medical Assistance. By reference to this legal framework, the Government of the Slovak Republic indicates that the ratification of Article 13§4 of the Charter is currently not under consideration (see for detailed information [The Third National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by the Slovak Republic).

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Article 13§4 grants non-resident foreign nationals an entitlement to emergency social and medical assistance.

Personal Scope of Article 13§4

⁶ Appendix to the 1961 Charter, European Treaty Series - No. 35; Appendix to the 1996 Charter, European Treaty Series – No. 163 1484 Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

⁷ See the 1st and 2nd reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovak Republic on the following address: <https://www.coe.int/en/web/european-social-charter/slovak-republic-and-the-european-social-charter>

The personal scope of Article 13§4 differs from that of other Charter provisions. In fact, paragraph 1 of the Appendix concerning the Charter's personal scope, states that Articles 1 to 17 and 20 to 31 apply to foreigners "only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned", but adds that this rule is "without prejudice to Article 12§4, and Article 13§4". Article 13§4 therefore refers to "nationals of other States Parties lawfully within their territories". Accordingly, the beneficiaries of this are foreign nationals who are lawfully present in a particular country but don't have resident status. By definition, no condition of length of presence can be set on the right to emergency assistance.⁸

Content of emergency assistance

States Parties are required to provide non-resident foreigners without resources – whether legally present or in an irregular situation - emergency social and medical assistance (accommodation, food, emergency care and clothing) to cope with an urgent and serious state of need (without interpreting too narrowly the "urgency" and "seriousness" criteria).⁹ States Parties are not *required* to apply the guaranteed income arrangements under their social protection systems.¹⁰

The provision of free emergency medical care must be governed by the individual's particular state of health.¹¹ Migrant minors in an irregular situation in a country are entitled to receive health care extending beyond urgent medical assistance and including primary and secondary care, as well as psychological assistance.¹²

Right of appeal

Emergency social assistance should be supported by a right to appeal to an independent body. There must be a functioning appeal mechanism before an independent judicial body in order to determine the proper administration of shelter distribution. This right must also be effective in practice.¹³

Conditions governing repatriation – links with the 1953 Convention

The personal and material scope of Article 13§4 is defined by the text of the appendix and that of Article 13§4 itself. Accordingly, such scope is not affected by the reference to the 1953 Convention. The only link between Article 13§4 and the 1953 Convention concerns the conditions under which States Parties can repatriate non-resident foreigners without resources on the ground that they are in need of assistance, namely that the persons are in a fit state of health to be transported (Article 7.a.ii of the 1953 Convention). This option may only be applied in the greatest moderation and then only where there is no objection on humanitarian grounds (Article 7.b of the 1953 Convention, see also Articles 8 to 10).¹⁴

⁸ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), complaint No. 86/2012, decision on the merits of 2 July 2014, §171

⁹ [Conclusions XIV-1 \(1998\), The Netherlands; Médecins du Monde - International v. France](#), complaint No. 67/2011, decision on the merits of 11 September 2012: §178; [Conclusions XX-2 \(2013\), Czech Republic](#)

¹⁰ [Conclusions XIII-4 \(1996\), Statement of Interpretation on Article 13](#)

¹¹ [Conclusions XX-2 \(2013\), Czech Republic; Conclusions 2013, Sweden; Conclusions XIV-1 \(1998\), Iceland](#)

¹² [Defence for Children International \(DCI\) v. Belgium](#), complaint No. 69/2011, decision on the merits of 23 October 2012, §128

¹³ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), complaint No. 86/2012, decision on the merits of 2 July 2014, §187

¹⁴ [Conclusions XIII-4 \(1996\), Statement of Interpretation on Article 13](#)

The abovementioned conditions for repatriation of non-resident nationals of other States Parties in state of need apply also in respect of States Parties that have not ratified the 1953 Convention.¹⁵

The other conditions set in Article 7 of the 1953 Convention do not apply, insofar as nationals of other States Parties who work regularly or reside legally within the territory of another State Party cannot be repatriated on the sole ground that they are in need of assistance. As long as their legal residence or regular work continues, they enjoy equal treatment laid down in the Appendix. Where such persons are migrant workers, they are also protected by Article 19§8, which would not permit expulsion on the ground of needing social assistance.¹⁶

Opinion of the ECSR

In its first report on non-accepted provisions, adopted in 2015, the Committee noted that further information on the legal situation and practice was needed to allow the Committee to form an opinion on the possible acceptance of Article 13§4 by the Slovak Republic.¹⁷ In its second report, adopted in 2019, the Committee reiterated its invitation to the Government for further information.¹⁸ The currently examined report provides no new or additional information about emergency medical and social assistance that would allow the Committee to confirm that this protection is available to foreigners present in the territory of the Slovak Republic. As regards the situation in the Slovak Republic, the Committee notes that no information specific to the personal and material scope of Article 13§4 of the Charter has been submitted by the Government.

In view of these requirements, the Committee considers that further information is necessary to assess whether the situation in law and practice is in line with the standards of the Charter. It encourages the Government to pursue their efforts and to consider accepting Article 13§4 in the near future.

Article 15§3 - The right of persons with disabilities to independence, social integration and participation in the life of the community

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

3. to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.

Situation in Slovak Republic

¹⁵ Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

¹⁶ Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

¹⁷ See the 1st and 2nd reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovak Republic on the following address: <https://www.coe.int/en/web/european-social-charter/slovak-republic-and-the-european-social-charter>

¹⁸ See the 1st and 2nd reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovak Republic on the following address: <https://www.coe.int/en/web/european-social-charter/slovak-republic-and-the-european-social-charter>

The report of the Government does not provide information in relation to Article 15§3.

Opinion of the ECSR

Information on the current legal situation and practice is needed to allow the Committee to form an opinion on the possibility of accepting Article 15§3 of the Charter by the Slovak Republic.

Article 18§3 - The right to engage in a gainful occupation in the territory of other Parties

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 the Slovak Republic

The Government of the Slovak Republic reiterates the information provided in the previous reports submitted in the context of non-accepted provisions of the Charter. In the Slovak Republic, legal regulations related to employment of foreigners are in accordance with EU legal regulations, since the Slovak Republic is an EU member state. The Government, thus, considers that Slovak laws must be in accordance with the EU law and cannot be simplified for third country nationals, despite the fact they are citizens of countries which have ratified the European Social Charter or its revised version. Therefore, the Slovak Republic is bound by the primary and secondary EU law related to this topic. The Government informs the Committee that the ratification of Article 18§3 is not considered by the Slovak Republic. (see for detailed information [The Third National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by the Slovak Republic)

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Under Article 18§3, States Parties are required to liberalise periodically the regulations governing the employment of foreign workers in the following areas:

Access to the national labour market

The conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive, in particular with regard to the geographical area in which the occupation can be carried out and the requirements be met.¹⁹

States Parties may make foreign nationals' access to employment on their territory subject to possession of a work permit but they cannot ban nationals of States Parties in general from occupying jobs for reasons other than those set out in Article G of the Charter.²⁰ A person who has been legally resident for a given length of time on the territory of another Party should be able to enjoy the same rights as national of that country.²¹ The restrictions initially imposed with regard to access to employment must therefore be gradually lifted.²²

¹⁹ [Conclusions V \(1977\), Germany](#)

²⁰ [Conclusions 2012, Ireland](#)

²¹ [Conclusions 2012, Ireland](#)

²² [Conclusions 2012, Ireland](#)

In order not to be in contradiction with Article 18 of the Charter, 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 from the national labour market, nor substantially limit the possibility for them of acceding the national labour market.²³ Such a situation, deriving from the implementation of “priority rules” of the kind just mentioned, would not be in conformity with Article 18§3, since the State in question would not comply with its obligation to progressively liberalise regulations governing the access to the national labour market with respect to foreign workers of a number of States Parties to the Charter.²⁴

The situation is not in conformity with Article 18§3 where the majority of refusals of work permit applications for nationals of non-EU/EEA States Parties to the Charter are the result of the application of so-called “priority worker” rules, as this does not show that the regulations have been applied in a liberal spirit.²⁵

The situation is not in conformity with Article 18§3 when the regulations governing access to self-employment of foreign workers have not been liberalised and foreign workers wishing to engage in a self-employed activity are subjected to a 5-year residence requirement and must demonstrate the creation of 10 new jobs on the market.²⁶

Recognition of certificates, qualifications and diplomas

Article 18§3 requires each State Party to liberalise regulations governing the employment of foreign workers, in order to ensure to the workers from other States Parties the effective exercise of the right to engage in a gainful occupation.²⁷ With a view to ensuring the effective exercise of this right, the States Parties’ engagement in liberalisation shall include regulations governing the recognition of foreign certificates, professional qualifications and diplomas, to the extent that such qualifications and certifications are necessary to engage in a gainful occupation as employees or self-employed workers.²⁸

A requirement that foreign workers must be in possession of certificates, professional qualifications or diplomas issued only by national authorities, schools, universities, or other training institutions - without opening the possibility of recognising as valid and appropriate substantially equivalent certificates, qualifications or diplomas issued by authorities, schools, universities or other training institutions of other States Parties, which have been obtained as a result of training courses or professional careers carried out within other States Parties - would represent a serious obstacle for foreign workers to access the national labour market, and an actual discrimination against non-nationals.²⁹ For this reason, States Parties must make efforts to liberalise regulations governing the recognition of foreign certificates, professional qualifications and diplomas, progressively reducing the disadvantages for foreign workers to engage in a gainful

²³ [Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3](#)

²⁴ [Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3](#)

²⁵ [Conclusions XXII-1 \(2020\), Iceland](#)

²⁶ [Conclusions 2020, Turkey, citing Conclusions 2016, Turkey](#)

²⁷ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

²⁸ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

²⁹ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

occupation due to lack of recognition of foreign diplomas or professional qualifications substantially equivalent to those issued by national authorities, schools, universities or other training institutions.³⁰

Rights in the event of loss of employment

Both the granting and the cancellation of work and temporary residence permits may well be interlinked, in as much as they pursue the same goal, namely, to enable a foreigner to engage in a gainful occupation.³¹

In cases where a work permit is revoked before the date of expiry, either because the employment contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State Party concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8.³²

The loss of employment should not lead to the cancellation of the residence permit, as this would require the worker to leave the country as soon as possible.³³ The validity of the residence permit should in fact be extended to give them enough time to find a new job.³⁴

Early termination of the employment relationship of a foreign national for professional misconduct resulting in the automatic withdrawal of that person's residence permit with no possibility of seeking new employment is also contrary to Article 18§3 of the Charter.³⁵

Opinion of the ECSR

The Committee recalls that, as established in its case law, there is no presumption of conformity of EU law with the European Social Charter.³⁶ EU member states have to observe commitments under the European Social Charter when agreeing on the content of Directives and when they transpose them into national legal systems.³⁷ However, with regard to the situation in the Slovak Republic concerning Article 18§3, the Committee has consistently expressed the view that the risk of conflicts between the duties that are imposed under Article 18§3 of the Charter and EU law are limited, the latter establishing minimum standards on the matter. Measures adopted to liberalise regulations governing the employment of foreign workers with a view to facilitating access to national labour market will therefore not necessarily be incompatible with EU law.³⁸ On

³⁰ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

³¹ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

³² [Conclusions 2012, Statement of interpretation on Article 18§3](#)

³³ [Conclusions XXII-1 \(2020\), Germany](#)

³⁴ [Conclusions XXII-1 \(2020\), Germany](#), citing [Conclusions XVII-2, \(2005\), Finland](#)

³⁵ [Conclusions 2020, The Netherlands](#)

³⁶ [Confédération Générale du Travail \(CGT\) v. France, complaint No. 55/2009](#), decision on the merits of 23 June 2010, §§31- 42

³⁷ [Confédération Générale du Travail \(CGT\) v. France, complaint No. 55/2009](#), decision on the merits of 23 June 2010, §33

³⁸ See the 1st and 2nd reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovak Republic on the following address: <https://www.coe.int/en/web/european-social-charter/slovak-republic-and-the-european-social-charter>

this basis, the Committee in its first and second reports on non-accepted provisions, invited the Slovak Republic to consider acceptance of Article 18§3.³⁹

On the basis of the present report, the Committee again invites the Government to consider acceptance of Article 18§3.

Article 19§2 – The right of migrant workers and their families to protection and assistance

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 adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey.

Situation in Slovak Republic

The report submitted by the Government of the Slovak Republic reproduces the information submitted in the context of previous examinations on non-accepted provisions and provides no new or additional information.⁴⁰ As in its previous report on non-accepted provisions, the Government confirms that conditions of departure, travelling and reception of EU citizens and third country nationals are governed by EU legislation. In facilitating the departure from the Slovak Republic of a migrant worker whose work permit expired, the Slovak Republic cooperates with the International Organisation for Migration in securing voluntary returns (Section 2 par. 1 letter (a) of Act No. 404/2011 Coll. on Residence of Aliens and Amendment and Supplementation of Certain Acts). Furthermore, the report again refers to the regulations on administrative expulsion (Section 77 of Act No. 404/2011 Coll. on Residence of Aliens and Amendment and Supplementation of Certain Acts) and health and medical care (Section 3 paragraph 3. (a) of Act No. 580/2004 Coll. on health insurance and on amendment of the Act No. 95/2002 Coll. on insurance and on amendments to certain laws). More details on the situation in the country are reflected in the first Report of the Committee on the non-accepted provisions by the Slovak Republic.

As in the context of previous examination of non-accepted provisions, the report of the Government states that the Slovak Republic is not able to accept Article 19§2 of the Charter because presumptions and requirements prescribed by this provision are at present not guaranteed by the legislation of the Slovak Republic. (see for detailed information [The Third National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by the Slovak Republic)

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³⁹ See the 1st and 2nd reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovak Republic on the following address: <https://www.coe.int/en/web/european-social-charter/slovak-republic-and-the-european-social-charter>

⁴⁰ See the 1st and 2nd reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovak Republic on the following address: <https://www.coe.int/en/web/european-social-charter/slovak-republic-and-the-european-social-charter>

This provision obliges States Parties to adopt special measures for the benefit of migrant workers to facilitate their departure, journey and reception.⁴¹ ‘Reception’ means the period of weeks which follows immediately from their arrival, during which migrant workers and their families most often find themselves in situations of particular difficulty.⁴² Special measures must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures.⁴³ The obligation to “provide within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey” relates to migrant workers and their families travelling either collectively or under the public or private arrangements for collective recruitment.⁴⁴ The Committee considers that this aspect of Article 19§2 does not apply to forms of individual migration for which the State is not responsible.⁴⁵ However, in that case, the need for reception facilities is all the greater.⁴⁶

In assessing States Parties’ compliance with Article 19§2, the Committee takes into consideration the following information: if specific steps are taken in the period following the arrival of any new migrants to assist them; if the assistance, financial or otherwise, available to all migrants in emergency situations, in particular in response to

- their needs of food, clothing and shelter;
- limits or restrictions on the access of working migrants to state welfare provision;
- the rules govern the access to healthcare for all migrants, irrespective of their status, in particular in emergency.⁴⁷

Opinion of the ECSR

In its first and second reports on non-accepted provisions by the Slovak Republic, the Committee stated that it was unable to establish whether there were or not obstacles to the ratification of Article 19§2, due to the lack of information relevant to the personal and material scope of the provision. With its current report, the Government offers no new or further information on the subject matter of Article 19§2.

The Committee, therefore, is unable to form an opinion on the possible acceptance of this provision.

Article 19§3 – The right of migrant workers and their families to protection and assistance

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 co-operation, as appropriate, between social services, public and private, in emigration and immigration countries.

⁴¹ [Conclusions III \(1973\), Cyprus](#)

⁴² [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

⁴³ [Conclusions IV \(1975\), Germany](#)

⁴⁴ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

⁴⁵ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

⁴⁶ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

⁴⁷ [Conclusions 2019, Armenia](#)

Situation in Slovak Republic

The report submitted by the Government provides no new information or developments, while it repeats the information submitted in the context of previous examinations of the situation with respect to non-accepted provisions by the Slovak Republic. In particular, the report mentions that the provision of Article 19§3 does not specify whether it deals with social services in a narrower sense (e.g. specifically for the elderly, disabled or homeless people) or in a broader sense, meaning that it also relates to employment services, services provided by health institutions and educational institutions.

The report further indicates that the Slovak Republic has no coordination mechanism of cooperation between public and private social services of the countries from which and to which the persons concerned have moved. According to the current legislation, the provision of social services has been decentralised to the self-governing regions and municipalities. Because of that, it is not possible to ensure coordination of cooperation between municipalities, self-governing regions or a private supplier of social services and providers of social services abroad. In accordance with Section 5 of Act No. 448/2008 Coll. on Social Services and the amendment of Act No. 455/1991 Coll. (Trade-licensing Act), social services and financial support for the compensation of health disabilities are provided to foreigners, provided they meet the requirements.

As in previous reports submitted, the Government indicates that the Slovak Republic is not able to ratify Article 19§3 of the Charter. (see for detailed information [The Third National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by the Slovak Republic)

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The scope of this provision extends to migrant workers immigrating as well as migrant workers emigrating to the territory of any other State.

Contacts and information exchanges should be established between public and/or private social services in emigration and immigration countries, with a view to facilitating the life of emigrants and their families, their adjustment to the new environment and their relations with members of their families who remain in their country of origin.⁴⁸ Formal arrangements are not always necessary, especially if there is little migratory movement in a given country.⁴⁹ In such cases, the provision of practical co-operation on a need basis may be sufficient.⁵⁰

Common situations in which such co-operation would be useful include where the migrant worker, who has left their family in the home country, fails to send money back or needs to be contacted for family reasons, or where the worker has returned to their country but needs to claim unpaid wages or benefits or must deal with various issues in the country in which they were employed.⁵¹ In order to assess States Parties' compliance with Article 19§3, the Committee takes into consideration the following information:

⁴⁸ [Conclusions XIV-1 \(1998\), Belgium](#)

⁴⁹ [Conclusions 2019, Albania](#)

⁵⁰ [Conclusions 2019, Albania](#)

⁵¹ [Conclusions XV-1 \(2000\), Finland](#)

- the form and nature of contacts and information exchanges established by social services in emigration and immigration countries;
- measures taken to establish such contacts and to promote the cooperation between social services in other countries;
- international agreements or networks, and specific examples of cooperation (whether formal or informal)
- which exist between the social services of the country and other origin and destination countries;
- whether the cooperation extends beyond social security alone (for example in family matters);
- examples of cooperation at a local level.⁵²

Opinion of the ECSR

In its first and second reports on non-accepted provisions by the Slovak Republic, based on identical information as that submitted in the report under examination, the Committee encouraged the Slovak Republic to develop practical co-operation on a needs basis that could be sufficient to ensure conformity with Article 19§3 of the Charter, and thus allow the acceptance of this provision. The Committee notes that no progress has been made since the first examination of the situation with regard to Article 19§3 of the Charter.⁵³

As regards the situation in the Slovak Republic, the Committee notes that the Government provided no information whether it has taken steps to develop practical co-operation as required under Article 19§3 of the Charter.

In light of the above, the Committee considers that further information is necessary to assess whether the situation in law and in practice is in line with the standards of the Charter. It encourages the Government to pursue their efforts and to consider accepting Article 19§3 in the near future.

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

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 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, and (c) accommodation.

Situation in Slovak Republic

⁵² [Conclusions 2019, Albania](#)

⁵³ See the 1st and 2nd reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovak Republic on the following address: <https://www.coe.int/en/web/european-social-charter/slovak-republic-and-the-european-social-charter>

The report submitted by the Government reproduces the information submitted in the context of previous examinations of the situation with respect to non-accepted provisions by the Slovak Republic. In particular, as in previous reports addressed to the Committee in the context of the examination of non-accepted provisions, the Government refers to the regulation of equal treatment within the employment relation, by reference to several provisions of the Labour Code, as well as to the personal scope of the Antidiscrimination Act (section 4 of the Act 365/2004 Coll.). The Government provides no specific information on the equal treatment of migrant workers with regard to accommodation.

The Government indicates that Slovak Republic is not able to accept Article 19§4(c). (see for detailed information [The Third National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by the Slovak Republic)

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Scope

States Parties are required to prove the absence of discrimination, whether direct or indirect, in terms of law and practice, and should inform of any practical measures taken to remedy cases of discrimination.⁵⁴ Equality in law does not always and necessarily ensure equality in practice.⁵⁵ Hence, additional action becomes necessary owing to the different situation of migrant workers as compared with nationals.⁵⁶ States Parties should pursue a positive and continuous course of action providing for more favourable treatment of migrant workers.⁵⁷

Article 19§4 also applies to posted workers, i.e. workers who, for a limited period, carry out their work in the territory of a State Party other than the State in which they usually work.⁵⁸ States must respect the principles of non-discrimination laid down by the Charter in respect of all persons subject to their jurisdiction.⁵⁹ Accordingly, any restrictions on the right to equal treatment for posted workers, which are imposed due to the nature of their sojourn, must be objectively justified by reference to the specific situations and status of posted workers, having regard to the principles of Article G of the Revised Charter (Article 31 of the 1961 Charter).⁶⁰

States Parties are also responsible for the regulation in national law of the conditions and rights of workers in cross-border postings.⁶¹

Accommodation

⁵⁴ [Conclusions III \(1973\), Statement of Interpretation on Article 19§4; European Federation of national organisations working with the Homeless \(FEANSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §§ 202-203.

⁵⁵ [Conclusions V \(1977\), Statement of Interpretation on Article 19](#)

⁵⁶ [Conclusions V \(1977\), Statement of Interpretation on Article 19](#)

⁵⁷ [Swedish Trade Union Confederation \(LO\) and Swedish Confederation of Professional Employees \(TCO\) v. Sweden](#), Complaint No. 85/2012, decision on the merits of 3 July 2013, §133

⁵⁸ [Conclusions 2015, Statement of interpretation on Article 19§4](#)

⁵⁹ [Conclusions 2015, Statement of interpretation on Article 19§4](#)

⁶⁰ [Conclusions 2015, Statement of interpretation on Article 19§4](#)

⁶¹ [Conclusions 2015, Statement of interpretation on Article 19§4](#)

The undertaking of States Parties under this sub-heading is to eliminate all legal and de facto discrimination concerning access to public and private housing.⁶² Irregularly present immigrants, however, do not fall within the scope of Article 19§4(c).⁶³

There must be no legal or de facto restrictions on home-buying,⁶⁴ access to subsidised housing or housing aids, such as loans or other allowances.⁶⁵

The right to equal treatment provided in Article 19§4(c) can only be effective if there is a right of appeal before an independent body against the relevant administrative decisions.⁶⁶

The economic obstacles to achieving full provision of social housing to those eligible do not provide a valid reason to discriminate against nationals of non-EU States.⁶⁷

Monitoring and judicial review

It is not enough for a government to demonstrate that no discrimination exists in law alone; it is obliged to demonstrate that it has taken adequate practical steps to eliminate all legal and de facto discrimination concerning the rights secured by Article 19§4 of the Charter.⁶⁸

In order to monitor and ensure that no discrimination occurs in practice, States Parties should have in place sufficient effective monitoring procedures or bodies to collect information, for example disaggregated data on remuneration or information on cases in employment tribunals.⁶⁹ Under Article 19§4(c), equal treatment can only be effective if there is a right of appeal before an independent body against the relevant administrative decision.⁷⁰ The Committee considers that existence of such review is important for all aspects covered by Article 19§4.⁷¹

Opinion of the ECSR

The Committee recalls that in order to comply with Article 19§4(c) to be observed, States Parties need to demonstrate absence of discrimination, whether direct or indirect, in terms of law and practice, and should inform of any practical measures taken to remedy cases of discrimination. States Parties should pursue a positive and continuous course of action providing for more favourable treatment of migrant workers. Specifically with regard to migrant workers' equal access to accommodation, governments must demonstrate that they have taken adequate practical

⁶² [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, §§ 145147 (finding of violation of Article E taken in conjunction with Article 19§4c).

⁶³ [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, §§ 145147 (finding of violation of Article E taken in conjunction with Article 19§4c).

⁶⁴ [Conclusions IV \(1975\), Norway](#); [Conclusions 2019, Albania](#)

⁶⁵ [Conclusions III \(1973\), Italy](#); [Conclusions 2019, Albania](#)

⁶⁶ [European Federation of national organisations working with the Homeless \(FEANSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §204, citing [Conclusions XV-1 \(2000\), Finland](#)

⁶⁷ [Conclusions 2015, Slovenia](#)

⁶⁸ [Conclusions III \(1973\), Statement of interpretation on Article 19§4](#); [Conclusions 2019, Albania](#)

⁶⁹ [Conclusions XX-4 \(2015\), Germany](#); [Conclusions 2019, Albania](#)

⁷⁰ [Conclusions XV-1 \(2000\), Finland](#)

⁷¹ [Conclusions 2019, Albania](#)

steps to eliminate all legal and de facto discrimination concerning access to public and private housing, including on home-buying, access to subsidised housing or housing aids, such as loans or other allowances. In addition, for Article 19§4(c) to be effective, it should be demonstrated that there is a right of appeal before an independent body against relevant administrative decisions.

In view of the above, the Committee considers that further information is necessary to assess whether the situation in law and in practice is in line with the standards of the Charter. It encourages the Government to pursue their efforts and to consider accepting Article 19§4(c) in the near future.

Article 19§8 – The right of migrant workers and their families to protection and assistance

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 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 Slovak Republic

The report submitted the Government indicates that the situation has remained unchanged. It reproduces information concerning reasons of expulsion of migrant workers, contained in previous reports, examined in the context of previous assessment of the situation regarding non-accepted provisions by the Slovak Republic.⁷²

The Government indicates in its report that Article 19§8 cannot be ratified, because expulsion of migrant workers is possible also due to different reasons than those specified in Article 19§8 of the Charter. (see for detailed information [The Third National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by the Slovak Republic)

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This provision requires 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.⁷³

In cases where a fundamental right such as the right of residence is at stake, the burden of proof rests with the Government to demonstrate that a person does not reside legally on its territory.⁷⁴ 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.⁷⁵ Any such expulsion should only be ordered in situations where the individual concerned has been

⁷² See the 1st and 2nd reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovak Republic on the following address: <https://www.coe.int/en/web/european-social-charter/slovak-republic-and-the-european-social-charter>

⁷³ [Conclusions VI \(1979\), Cyprus; Conclusions 2011, Statement of Interpretation on Article 19§8; Conclusions 2015, Statement of interpretation on Article 19§8](#)

⁷⁴ [Médecins du Monde - International v. France](#), Complaint No. 67/2011, decision on the merits of 11 September 2012, §114

⁷⁵ [Conclusions 2015, Statement of interpretation on Article 19§8](#)

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.⁷⁶ 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.⁷⁷ The individual's connection or ties with both the host state and the state of origin, as well as the strength of any family relationships that they may have formed during this period, must also be considered to determine whether expulsion is proportionate.⁷⁸

Risks to public health are not in themselves risks to public order and cannot constitute a ground for expulsion, unless the person refuses to undergo suitable treatment.⁷⁹

The fact that a migrant worker is dependent on social assistance cannot be regarded as a threat against public order and cannot constitute a ground for expulsion.⁸⁰

States Parties must ensure that foreign nationals served with expulsion orders have a right of appeal to a court or other independent body.⁸¹

Collective expulsions are not in conformity with the Charter; decisions on expulsion may be made only on the basis of a reasonable and objective examination of the particular situation of each individual.⁸²

National legislation should reflect the legal implications of Articles 18§1 and 19§8 as well as the case law of the European Court of Human Rights: foreign nationals who have been resident for a sufficient length of time in a State, either legally or with the tacit acceptance of their illegal status by the authorities in view of the host country's needs, should be covered by the rules protecting from deportation.⁸³

Opinion of the ECSR

In its first and second reports on non-accepted provisions by the Slovak Republic, the Committee held that the fact that grounds for expulsion go beyond those provided in Article 19§8 was an obstacle to ratifying the provision. The same obstacle persists, as the Government reports no progress in removing obstacles related to the acceptance of Article 19§8 over the past ten years.

In addition, the Government does not demonstrate the observance of other aspects of Article 19§8, such as for example, the effective protection of a right to appeal to independent authorities and the compliance of national legislation with the Articles 18 and 19 of the Charter, as well as

⁷⁶ [Conclusions 2015, Statement of interpretation on Article 19§8](#)

⁷⁷ [Conclusions 2015, Statement of interpretation on Article 19§8](#)

⁷⁸ [Conclusions 2015, Statement of interpretation on Article 19§8](#)

⁷⁹ [Conclusions V \(1977\), Germany](#)

⁸⁰ [Conclusions V \(1977\), Italy](#)

⁸¹ [Conclusions V \(1977\), United Kingdom; Conclusions 2015, Statement of interpretation on Article 19§8](#)

⁸² [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 155-158; [Centre on Housing Rights and Evictions \(COHRE\) v. France](#), Complaint No. 63/2010, decision on the merits of 28 June 2011, §§ 68-79; [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §§ 51-67; [Médecins du Monde - International v. France](#), Complaint No. 67/2011, decision on the merits of 11 September 2012, §§ 112-117

⁸³ [Conclusions 2011, Statement of Interpretation on Article 19§8](#)

with the case law of European Court of Human Rights. The Committee wishes to receive more information concerning these aspects of Article 19§8.

In the light of the information provided by the Government, the Committee reiterates its view that there are certain obstacles to the ratification of Article 19§8 and encourages the Slovak Republic to remove these obstacles and move towards accepting this provision.

Article 19§10 – The right of migrant workers and their families to protection and assistance

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 Slovak Republic

As in its previous reports, the Government indicates that only paragraphs 1, 5, 6, 7, 9, 11 and 12 of Article 19 of the Charter can be directly or similarly applied in the Slovak Republic also to migrant self-employed persons, while protection enshrined in paragraphs 2, 3, 4 and 8 cannot be applied to foreigners – migrant self-employed persons. The Government indicates that Slovak Republic is not able to ratify Article 19§10. (see for detailed information [The Third National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by the Slovak Republic)

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Under this provision, States Parties must extend the rights provided for in paragraphs 1 to 9, 11 and 12 to self-employed migrant workers and their families.⁸⁴

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.⁸⁵ In addition equal treatment between self-employed migrants and self-employed nationals must be guaranteed in the areas covered by this provision.⁸⁶

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.⁸⁷ Such finding of non-conformity prevents discrimination or difference in treatment.⁸⁸

Opinion of the ECSR

⁸⁴ [Conclusions I \(1969\), Norway](#)

⁸⁵ [Conclusions 2002, France](#)

⁸⁶ [Conclusions XVIII-1 \(2006\) Luxembourg](#)

⁸⁷ [Conclusions 2019, Albania](#)

⁸⁸ [Conclusions 2019, Albania 2012](#)
[Conclusions 2002, France](#)

In its previous assessments, reflected in the first and second report on non-accepted provisions by the Slovak Republic, the Committee found that there are obstacles to the ratification of Article 19§10 and encouraged the Government to take measures to remove them.

The Committee recalls that a finding of non-conformity with regards to any other paragraph of Article 19 leads to a finding of non-conformity also under Article 19§10. Considering its opinion expressed in the context of the examination of the situation under Article 19§§3 and 8 and the lack of progress on the part of the Slovak Republic, the Committee reiterates its opinion that there are obstacles to the ratification of this provision. The Committee wishes to once again encourage the authorities to take the necessary measures to remove any remaining obstacles and proceed to accepting Article 19§10 of the Charter.

Article 19§12 – The right of migrant workers and their families to protection and assistance

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, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

Situation in Slovak Republic

The Government indicates that the situation has not changed since the Committee's previous assessments on non-accepted provisions. The Government refers to national legislation (School Act (Act No. 245/2008 Coll. on Education)). The School Act stipulates, among others, that children and pupils belonging to national minorities have the right to education, alongside the state language, in their own language under the conditions provided by this Act. A compulsory subject on the Slovak language and literature at the level required to master the state language must be included in the curriculum of primary and secondary schools with the language of education different from the state language. Furthermore, the report notes that in accordance with Section 146 paragraph 7 of the School Act, schools other than public schools that provide education in a language other than the state language in return for financial compensation may be established for the children of foreigners legally residing in the Slovak Republic.

The report states that the Slovak Republic is not able to accept Article 19§12 of the Charter because, from the point of view of the application of the Slovak School Act, this provision of the Charter is not ratifiable, as there is no indication whether teaching in a language other than the language of the State must be free of charge or not. (see for detailed information [The Third National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by the Slovak Republic)

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States Parties should promote and facilitate the teaching of the languages most represented among the migrants present on their territories within their school systems or in other contexts such as voluntary associations or non-governmental organisations.⁸⁹

⁸⁹ [Conclusions 2002, Italy; Conclusions 2011, Armenia; Conclusions 2011, Statement of Interpretation on Article 19§12](#)

For a comprehensive assessment of the situation under this provision, the Committee takes into consideration, in particular, the following detailed information:

- statistics on major migrant groups,⁹⁰
- whether any measures or projects have been put in place in the framework of the school system or other structures to provide education of migrants' mother tongue,⁹¹
- whether the children of migrants have access to multilingual education and on what basis; what steps that government has taken to facilitate the access of migrants' children to these schools,⁹²
- whether any non-governmental organisations or other bodies, such as local associations, cultural centres or private initiatives that teach migrant workers' children the language of their country of origin, and whether they receive support.⁹³

Opinion of the ECSR

In its first and second reports on non-accepted provisions by the Slovak Republic, the Committee held that the provision could be possibly considered for ratification, provided that the right protected is further specified, especially as regards adult migrants. The Government reported no progress in this regard.

In view of the above, the Committee considers that further information is necessary to assess whether the situation in law and in practice is in line with the standards of the Charter. It encourages the Government to pursue their efforts and to consider accepting Article 19§12 in the near future.

Article 31§1 – The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed to promote access to housing of an adequate standard.

Situation in Slovak Republic

In its written submission, the Government reproduces the information provided in the context of previous examinations on non-accepted provisions. The Government indicates that existing support for access to adequate housing, like the housing allowance and funding for the development of housing, are supplementary and insufficient. The Government states that the Slovak Republic is not able to ratify the given provision of the Charter due to the financial burden associated with it and due to the state's inability to meet the prescribed requirements. On top of that, there is no act on housing support or any other similar legislation. (see for detailed information [The Third National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by the Slovak Republic)

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⁹⁰ [Conclusions 2019, Albania](#)

⁹¹ [Conclusions 2019, Albania](#)

⁹² [Conclusions 2019, Albania](#)

⁹³ [Conclusions 2019, Albania](#)

Personal scope

Under Article 31§1 of the Charter, States Parties shall guarantee to everyone the right to housing and shall promote access to adequate housing.⁹⁴ States must take the legal and practical measures which are necessary and adequate for the effective protection of the right in question.⁹⁵ States 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.⁹⁶

States Parties must guarantee to everyone the right to adequate housing.⁹⁷ They should promote access to housing in particular to different groups of vulnerable persons, such as low-income persons, unemployed persons, single parent households, young persons, persons with disabilities including those with mental health problems.⁹⁸

Adequate housing

The notion of adequate housing must be defined in law. “Adequate housing” means:

1. a dwelling which is safe from a sanitary and health point of view, i.e. that possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity, etc and where specific dangers such as the presence of lead or asbestos are under control;⁹⁹
2. a dwelling which is not over-crowded, that the size of the dwelling must be suitable in light of the number of persons and the composition of the household in residence;¹⁰⁰
3. a dwelling with secure tenure supported by the law. This issue is covered by Article 31§2.¹⁰¹

The definition of adequate housing must be applied not only to new constructions, but also gradually to the existing housing stock.¹⁰² It must also be applied to housing available for rent as well as to housing owner occupied housing.¹⁰³

Positive measures in the field of housing must be adopted in respect of vulnerable persons, paying particular attention to the situation of Roma and Travellers. As a result of their history, the Roma have become a specific type of disadvantaged group and vulnerable minority.¹⁰⁴ They, therefore, require special protection.¹⁰⁵ Special consideration should be given to their needs and

⁹⁴ [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

⁹⁵ [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

⁹⁶ [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

⁹⁷ Conclusions 2003, France

⁹⁸ [Conclusions 2003, Italy](#)

⁹⁹ [Conclusions 2003, France](#)

¹⁰⁰ [Conclusions 2003, France](#)

¹⁰¹ [Conclusions 2003, France](#)

¹⁰² [Conclusions 2003, France](#)

¹⁰³ [Conclusions 2003, France](#)

¹⁰⁴ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

¹⁰⁵ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases.¹⁰⁶

The failure to provide a sufficient number of halting sites for Travellers as well as the poor living conditions and operational failures on such sites have led to findings of non-conformity under this provision.¹⁰⁷

Likewise, housing policies which have resulted in the spatial and social segregation of Roma (poorly built housing, on the outskirts of towns, segregated from the rest of the population), have also led to breaches of the Charter.¹⁰⁸

The fact that some refugee and asylum-seeking unaccompanied children may remain for lengthy periods of time in temporary accommodation facilities (emergency hotels and Safe zones) does not satisfy the requirements of long-term accommodation suited to their specific circumstances, needs and extreme vulnerability and violates Article 31§1.¹⁰⁹ These facilities do not offer the quality standards necessary for the long-term accommodation of unaccompanied children.¹¹⁰

Effectiveness

It is incumbent on the public authorities to ensure that housing is adequate through different measures such as, in particular, an inventory of the housing stock, injunctions against owners who disregard obligations, urban development rules and maintenance obligations for landlords.¹¹¹ States Parties are expected to demonstrate how the adequacy of the existing housing stock (whether rented or not, privately or publicly owned) is checked, whether regular inspections are carried out and what follow-up is given to decisions finding that a dwelling does not comply with the relevant regulation.¹¹² Public authorities must also limit against the interruption of essential services such as water, electricity and telephone.¹¹³

Even if under domestic law, local or regional authorities, trade unions or professional organisations are responsible for exercising a particular function, States Parties to the Charter are responsible, in terms of their international obligations to ensure that such responsibilities are properly exercised.¹¹⁴ Thus, ultimate responsibility for policy implementation, involving at a minimum supervision and regulation of local action, lies with the Government which must be able

¹⁰⁶ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

¹⁰⁷ [European Roma Rights Centre \(ERRC\) v. France](#), Complaint No. 51/2008, decision on the merits of 19 October 2009, §§ 38, 39, 49; [Conclusions 2019, France](#)

¹⁰⁸ [European Roma Rights Center \(ERRC\) v. Portugal](#), Complaint No. 61/2010, decision on the merits of 30 June 2011, §48

¹⁰⁹ [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece](#), Complaint No. 173/2018, decision on the merits of 26 January 2021, §145

¹¹⁰ [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece](#), Complaint No. 173/2018, decision on the merits of 26 January 2021, §145

¹¹¹ [Conclusions 2003, France](#)

¹¹² [Conclusions 2019, Turkey, Ukraine](#)

¹¹³ [Conclusions 2003, France](#)

¹¹⁴ [European Roma Rights Center \(ERRC\) v. Italy](#), Complaint No. 27/2004, decision on the merits of 7 December 2005, §26, citing [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §29

to show that both local authorities and itself have taken practical steps to ensure that local action is effective.¹¹⁵

Legal protection

The effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers must have access to affordable and impartial judicial or other remedies.¹¹⁶ Any appeal procedure must be effective.¹¹⁷

Opinion of the ECSR

In its first report on non-accepted provisions, the Committee found that the situation in the Slovak Republic with regard to Article 31§1 did not appear to be in line with the requirements of the Charter. With its second report on non-accepted provisions, the Committee encouraged the authorities to adopt measures to remove remaining obstacles and accept Article 31§1 of the Charter. Given that the situation has not changed substantially, the Committee reiterates its previous findings and invites the authorities to take the necessary steps towards addressing the barriers to effective protection as guaranteed by Article 31§1.

Article 31§2 – The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed to prevent and reduce homelessness with a view to its gradual elimination.

Situation in Slovak Republic

In its written submission, the Government indicates that the situation in Slovak Republic with regard to Article 31§2 has remained unchanged since previous examinations of non-accepted provisions and that there are no new developments. The report refers again to the aspect of Article 31§2 concerning the right to shelter of homeless persons. It indicates that there is no legislation aimed at prevention and reduction of homelessness, while the provision of shelters and services to homeless persons is a transitional measure seeking to ease the burden of homeless persons, but without eliminating or lowering levels of homelessness. The Government indicates that the Slovak Republic is not able to ratify Article 31§2. (see for detailed information [The Third National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by the Slovak Republic)

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Definition

¹¹⁵ [European Roma Rights Center \(ERRC\) v. Italy](#), Complaint No. 27/2004, decision on the merits of 7 December 2005, §26; [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No. 39/2006, decision on the merits of 5 December 2007, §79

¹¹⁶ [Conclusions 2003, France](#)

¹¹⁷ [Conclusions 2015, Austria, Article 16](#)

Homeless persons are those persons who legally do not have at their disposal a dwelling or other form of adequate housing in the terms of Article 31§1.¹¹⁸

Article 31§2 obliges States Parties to gradually reduce homelessness with a view to its elimination.¹¹⁹ Reducing homelessness implies the introduction of measures such as provision of immediate shelter and care for the homeless and measures to help such people overcome their *difficulties* and prevent a return to homelessness.¹²⁰

Preventing homelessness

States Parties must take action to prevent categories of vulnerable people from becoming homeless. This requires States Parties to introduce a housing policy for all disadvantaged groups of people to ensure access to social housing and housing allowances. (cf. Article 31§3).¹²¹

Though State authorities enjoy a wide margin of discretion in measures to be taken concerning town planning, they must strike a balance between the general interest and the fundamental rights of the individuals, in particular the right to housing and its corollary of ensuring individuals do not become homeless.¹²²

Protection from evictions

Forced eviction can be understood to cover situations involving deprivation of housing which a person occupied due to insolvency or wrongful occupation.¹²³

States Parties must set up procedural safeguards to limit the risk of eviction.¹²⁴

Illegal occupation of a site or dwelling may justify the eviction of the illegal occupants.¹²⁵ However, the criteria of illegal occupation must not be unduly wide, and evictions should be governed by rules of procedure sufficiently protective of the rights of the persons concerned and should be carried out according to these rules.²⁴⁶⁶

Legal protection for persons threatened by eviction must include, in particular, an obligation to consult the parties affected in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction.²⁴⁶⁷ A notice period of one month in case of eviction due to insolvency or wrongful occupation is not reasonable.¹²⁶

¹¹⁸ [Conclusions 2003, Italy; Conference of European Churches \(CEC\) v. the Netherlands](#), Complaint No. 90/2013, decision on the merits of 1 July 2014, §135

¹¹⁹ [Conclusions 2003, Sweden](#)

¹²⁰ [Conclusions 2003, Sweden](#)

¹²¹ [Conclusions 2003, Sweden; Conclusions 2005, Lithuania; Conference of European Churches \(CEC\) v. the Netherlands](#), Complaint No. 90/2013, decision on the merits of 1 July 2014, §136

¹²² [Conclusions 2007, Italy](#)

¹²³ [Conclusions 2003, Sweden; Conclusions 2019, Ukraine](#)

¹²⁴ [Conclusions 2005, Lithuania](#)

¹²⁵ [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §51 2466 [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §51 2467 [Conclusions 2003, Sweden](#)

¹²⁶ [Conclusions 2019, Ukraine](#)

When evictions do take place, they must be carried out under conditions that respect the dignity of the persons concerned.¹²⁷ The law must prohibit evictions carried out at night or during the winter period.¹²⁸ When an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned.¹²⁹

Domestic law must provide legal remedies and offer legal aid to those who are in need of seeking redress from the courts. Compensation for illegal evictions must also be provided.¹³⁰

Right to shelter

According to Article 31§2, homeless persons must be offered shelter as an emergency solution.¹³¹ To ensure that the dignity of the persons sheltered is respected, shelters must meet health, safety and hygiene standards and, in particular, be equipped with basic amenities such as access to clean water and heating and sufficient lighting.¹³² Another basic requirement is the security of the immediate surroundings.¹³³ Nevertheless, temporary housing need not be subject to the same requirements of privacy, family life and suitability as are required from more permanent forms of standard housing, once the minimum requirements are met.¹³⁴

States Parties shall foresee sufficient places in emergency shelters¹³⁵ and the conditions in the shelters should be such as to enable living in keeping with human dignity.¹³⁶

The temporary supply of shelter, however adequate, cannot be considered satisfactory.¹³⁷ Individuals who are homeless should be provided with adequate housing within a reasonable period.¹³⁸ In addition, measures should be taken to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness.¹³⁹

The right to shelter should be adequately guaranteed for migrants, including unaccompanied migrant children, and asylum-seekers.¹⁴⁰ States Parties are required to provide adequate shelter

¹²⁷ [Conclusions 2003, Sweden](#)

¹²⁸ [Conclusions 2003, Sweden](#)

¹²⁹ [Conclusions 2003, Sweden](#)

¹³⁰ [Conclusions 2003, Sweden](#)

¹³¹ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §46

¹³² [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

¹³³ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

¹³⁴ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

¹³⁵ [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007, §107

¹³⁶ [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007, §§ 108-109

¹³⁷ [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007, §106

¹³⁸ [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007, §106

¹³⁹ [Conclusions 2003, Italy](#)

¹⁴⁰ [Conclusions 2019, Greece](#)

to children unlawfully present in their territory for as long as they are within their jurisdiction.¹⁴¹ As the scope of Articles 31§2 and 17 overlap to a large extent, the Committee assesses the issue of the right to a shelter of unaccompanied foreign minors under the scope of Article 31§2 when States Parties have accepted both provisions.¹⁴² The housing of people in reception camps and temporary shelters which do not satisfy the standards of human dignity is in violation of the aforementioned requirements.¹⁴³ States should develop detailed guidelines on standards of reception facilities, assuring adequate space and privacy for children and their families.¹⁴⁴ The exceptional nature of the situation resulting from an increasing influx of migrants and refugees and the difficulties for a State in managing the situation at its borders cannot absolve that State of its obligations under Article 31§2 of the Charter to provide shelter to migrant and refugee children, in view of their specific needs and extreme vulnerability, or otherwise limit or dilute its responsibility under the Charter.¹⁴⁵

The Committee considers that eviction from shelters without the provision of alternative accommodation must be prohibited.¹⁴⁶

Eviction from shelter of persons irregularly present within the territory of a State Party should be prohibited as it would place the persons concerned, particularly children, in a situation of extreme helplessness, which is contrary to the respect for their human dignity.¹⁴⁷

States Parties are not obliged to provide alternative accommodation in the form of permanent housing within the meaning of Article 31§1 for migrants in an irregular situation.¹⁴⁸

Opinion of the ECSR

As in previous reports,¹⁴⁹ the Committee acknowledges the efforts made by the Government with regard to the right to shelter of homeless persons. It recalls, however, that there are additional obligations in place, relating to policies to prevent homelessness with the aim of its elimination, protection from (forced) eviction, and provisions of shelter to migrants, including unaccompanied migrant children, and asylum-seekers. As to the first of these obligations, referring to policies to prevent homelessness, the Government indicates in its report that there is no legislation aiming to prevent and reduce homelessness.

¹⁴¹ [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece](#), Complaint No. 173/2018, decision on the merits of 26 January 2021, §117

¹⁴² [European Committee for Home-Based Priority Action for the Child and the Family \(EUROCEF\) v. France](#), Complaint No. 114/2015, decision on the merits of 24 January 2018, §173

¹⁴³ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

¹⁴⁴ [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece](#), Complaint No. 173/2018, decision on the merits of 26 January 2021, §121

¹⁴⁵ [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece](#), Complaint No. 173/2018, decision on the merits of 26 January 2021, §133

¹⁴⁶ [Conclusions 2015, Statement of Interpretation on Article 31§2](#)

¹⁴⁷ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §110

¹⁴⁸ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §60

¹⁴⁹ See the 1st and 2nd reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovak Republic on the following address: <https://www.coe.int/en/web/european-social-charter/slovak-republic-and-the-european-social-charter>

As regards the situation in the Slovak Republic, the Committee notes that the Government provided no information on the protection from (forced) eviction, as well as information regarding the provision of shelter to migrants, including unaccompanied minors and asylum seekers. In the meantime, and given that there is no legislation or specific measures in place to prevent homelessness, the Committee considers that there are still certain obstacles to the ratification of Article 31§2. It encourages the authorities to take all necessary measures to remove these obstacles and to consider acceptance of this provision in the near future.

Article 31§3 – The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed to make the price of housing accessible to those without adequate resources.

Situation in Slovak Republic

The Government indicates that the Slovak Republic is not able to ratify Article 31§3 for the same reasons as those listed in the submitted information regarding Article 31§1. (see for detailed information [The Third National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by the Slovak Republic)

ECSR case law ([DIGEST](#))

Social housing

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other housing-related costs (e.g. utility, maintenance and management charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located.¹⁵⁰ In order to establish that measures are being taken to make the price of housing accessible to those without adequate resources, States Parties to the Charter must show that the affordability ratio of the poorest applicants for housing is compatible with their level of income.¹⁵¹

States Parties must:

- adopt appropriate measures for the provision of housing, in particular social housing.¹⁵² Social housing should target, in particular, the most disadvantaged;¹⁵³

¹⁵⁰ Conclusions 2003, Sweden

¹⁵¹ FEANTSA v. Slovenia, Complaint No. 53/2008, decision on the merits of 8 September 2009, §72.

¹⁵² Conclusions 2003, Sweden

¹⁵³ International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 98-100

- adopt measures to ensure that waiting periods for the allocation of housing are not excessive;¹⁵⁴ judicial or other remedies must be available when waiting periods are excessive;¹⁵⁵

All the rights thus provided must be guaranteed without discrimination, in particular as in respect of Roma or Travellers wishing to live in mobile homes.¹⁵⁶

Housing benefits

Under Article 31§3, States Parties are required to adopt comprehensive housing benefit systems to protect lowincome and disadvantaged sections of the population.¹⁵⁷ Housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.¹⁵⁸

The right to affordable housing must not be subject to any kind of discrimination on any grounds mentioned by Article E of the Charter.¹⁵⁹

Opinion of the ECSR

In its first report on non-accepted provisions, the Committee held that there were obstacles to the acceptance of Article 31§3, and in its second report it encouraged authorities to take the necessary measures to remove any remaining obstacles and proceed to accepting Article 31§3 of the Charter. Given that the Government reports no progress regarding the situation under Article 31§3, the Committee reiterates its previous position.

The Committee underlines that the right to housing (Article 31) is a critical right for a decent life and a safeguard against poverty and social exclusion, and it therefore wishes to encourage the Government to remove the obstacles and to consider the acceptance of this provision in the near future.

¹⁵⁴ International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §131

¹⁵⁵ International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §131

¹⁵⁶ International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 149155; Conclusions 2019, France

¹⁵⁷ Conclusions 2003, Sweden; Conclusions 2019, Greece

¹⁵⁸ Conclusions 2003, Sweden

¹⁵⁹ Conclusions 2019, Turkey

— The Slovak Republic and the European Social Charter —

Signatures, ratifications and accepted provisions

The Slovak Republic ratified the European Social Charter and the Additional Protocol to the Charter on 22/06/1998, accepting 60 of the Charter's 72 paragraphs, and all 4 articles of the Additional Protocol. It also ratified the Amending Protocol to the Charter on 22/06/1998.

It ratified the Revised European Social Charter on 23/04/2009, accepting 87 of the Revised Charter's 98 paragraphs.

It signed the Additional Protocol providing for a system of collective complaints on 18/11/1999 but has not yet accepted the procedure.

The Charter in domestic law

Article 11 of the Constitution: "International instruments on human rights and freedoms ratified by the Slovak Republic and promulgated under statutory requirements shall take precedence over national laws provided that the international treaties and agreements guarantee greater constitutional rights and freedoms."

Table of accepted provisions

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

¹ Sub-paragraphs a. and b. accepted

Reports on non-accepted provisions

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

The Committee was of the view that the Slovak Republic could consider acceptance of Articles 18§3, 19§4 (c) and 31§2.

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

Monitoring the implementation of the European Social Charter ¹⁶⁰

I. Reporting system ¹⁶¹

Reports submitted by the Slovak Republic

Between 2001 and 2024, the Slovak Republic has submitted 7 reports on the application of the 1961 Charter and 14 reports on the application of the Revised Charter.

The [13th report](#), which was submitted on 09/02/2023, concerns the accepted provisions relating to thematic group 4 "Children, families and migrants" (Articles 7, 8, 16, 17, 16, 19, 27 and 31).

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

On 22 January 2024, an [ad hoc report on the cost-of-living crisis was submitted by the Slovak Republic](#)¹⁶².

Situations of non-conformity ¹⁶³

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

► *Article 1§3- Right to work – Free placement services*

It has not been established that employment services operate in an efficient manner.

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

It has not been established that equal treatment with respect to access to training and retraining for the long-term unemployed persons is guaranteed to nationals of other States Parties.

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

- The legislation explicitly includes only certain elements of pay under the principle of equal pay;
- The obligation to make measurable progress in reducing the gender pay gap has not been fulfilled.

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

► *Article 3§2 – Right to safe and healthy working conditions – Safety and health regulations*

It has not been established that:

¹⁶⁰ The Committee monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ».

Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

¹⁶¹ Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

¹⁶² In accordance with the [decision of the Ministers' Deputies](#) adopted on 27 September 2022 concerning the [new system](#) for the presentation of reports under the European Social Charter, the European Committee of Social Rights and the Governmental Committee have decided to request an *ad hoc* report on the cost-of-living crisis to all State parties.

¹⁶³ Further information on the situations of non-conformity is available on the [HUDOC database](#).

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

► *Article 11§1- Right to protection of health - Removal of the causes of ill-health*
Insufficient measures have been taken to reduce the number of premature deaths.

► *Article 11§3 - Right to protection of health - Prevention of diseases and accidents*
It has not been established that:

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

► *Article 12§1 – Right to social security - Existence of a social security system*
The amount of sickness benefit can be reduced on discriminatory grounds.

► *Article 12§4 - Right to social security - Social security of persons moving between states*
It has not been established that the right to maintenance of accruing rights is guaranteed to nationals of all other States Parties.

► *Article 13§1 - Right to social security - Right for every person in need to adequate assistance*
The level of social assistance paid to a single person without resources is not adequate.

► *Article 23 - Right of the elderly to social protection*

- The level of the minimum old age pension is inadequate;
- The amount of social assistance is inadequate where the person has no other resources.

Thematic Group 3 “Labour rights” - Conclusions 2022

► *Article 2§5 - Right to just conditions of work - Weekly rest period*
There are insufficient safeguards to prevent workers from working for more than twelve consecutive days before being granted a rest period.

► *Article 4§4 - Right to a fair remuneration - Reasonable notice of termination of employment*
The notice period during probation is manifestly unreasonable for workers with more than three months of service.

► *Article 4§5 - Right to a fair remuneration - Limits to deduction from wages*
The protected wage which is left after all the deductions may deprive workers of their means of subsistence.

► *Article 6§4 - Right to bargain collectively - Collective action*
Strikes are prohibited for a large number of state/public sector employees and that the restrictions on the right to strike go beyond the limits set by Article G of the Charter.

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

- Victims of sexual harassment are not guaranteed sufficient and effective remedies against sexual harassment in relation to work;
- It has not been established that appropriate and effective redress is guaranteed in cases of sexual harassment in relation to work.

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

- It has not been established that there is adequate prevention of moral (psychological) harassment in relation to work;

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

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

Adequate protection is not provided for in the event of an unlawful dismissal based on trade union activities.

Thematic Group 4 "Children, families, migrants" - Conclusions 2023

► *Article 8§2 – Right of employed women to protection - Illegality of dismissal during maternity leave*

A worker may be dismissed during her pregnancy or maternity leave if she does not accept the changes to her employment contract resulting from the relocation of all or part of the employer's activities.

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

- The measures taken do not ensure an adequate protection of women against domestic violence;
- The protection of Roma families in terms of housing, including eviction conditions, is inadequate.

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

- Not all forms of corporal punishment are prohibited in all settings;
- Bone testing is used to assess the age of children in irregular migration situation;
- The length of pre-trial detention of children is excessive.

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

Adequate measures have not been taken to include Roma children in mainstream education.

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

The family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion.

The Committee also considered that the failure to provide requested information on Articles 7§3, 7§5, 7§10, 16, 17§1 and 19§4 amounts to a breach by the Slovak Republic of its reporting obligations under Article C of the Charter.

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

Thematic Group 1 “Employment, training and equal opportunities”

- ▶ Article 1§2 - Conclusions 2020
- ▶ Article 1§4 - Conclusions 2020
- ▶ Article 9 - Conclusions 2020
- ▶ Article 10§1 - Conclusions 2020
- ▶ Article 10§3 - Conclusions 2020
- ▶ Article 15§1 - Conclusions 2020
- ▶ Article 15§2 - Conclusions 2020
- ▶ Article 18§2 - Conclusions 2020
- ▶ Article 24 - Conclusions 2020

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

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

Thematic Group 3 “Labour rights”

- ▶ Article 2§1 - Conclusions 2022
- ▶ Article 4§1 - Conclusions 2022
- ▶ Article 4§3 - Conclusions 2022
- ▶ Article 5 - Conclusions 2022
- ▶ Article 6§1 - Conclusions 2022
- ▶ Article 29 - Conclusions 2022

Thematic Group 4 “Children, families, migrants”

-

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

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ Measures taken by employers to deal with the decline in skilled labour in the face of technological and/or economic progress (Act No. 386/1997 on the system of further training).
- ▶ Equal treatment in relation to vocational continuing training is guaranteed to nationals of other states party to the Charter and the Revised Charter who reside legally and work regularly in Slovakia (Act No. 5/2004).
- ▶ Act 184/2009 Coll. on Vocational Education and Training is one of the pillars of the reform of the educational system. The Act was amended in September 2012 and the amendment strengthened the coordination of vocational training and education to be better suited to the needs of the labour market. The amendment also introduced the obligation to publish information about the employability of graduates in each individual self-governing region, according to the fields of study and type of the secondary education facility.
- ▶ The Anti-Discrimination Act was amended in 2012 to cover the definition of indirect discrimination and it now enables public administration bodies and legal entities, including employers, to adopt temporary compensatory measures to eliminate disadvantages due to gender.

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

- ▶ Adoption of several laws and regulations on minimum safety and health requirements at work, covering most of the relevant risks, i.e. among others, those related to health protection at work with ionising radiations, carcinogens, biological and chemical agents, asbestos, noise and vibrations, as well as minimum safety and health requirements for the use of work equipment and for the manual handling of loads at work.
- ▶ Incorporation of health education and promotion in school curricula.

Thematic Group 3 "Labour rights"

- ▶ As of the beginning of 2019, the compensation for work on public holiday has been increased to 100% of the employee's average wage for everyone. According to the report, this applies to all sectors of the economy, as well as the private and public sphere, all categories of workers and for all types of employment contracts. Each worker performing work during public holidays receives their usual wage and a 100% bonus, at the minimum. The Labour Code also allows for even higher compensation on the basis of collective agreements between the social partners.

Thematic Group 4 "Children, families, migrants"

- ▶ The amount of maternity benefits increased from 65% (Conclusions 2015) to 75% of the employee's salary.

APPENDIX II



PRESIDENCY OF LITHUANIA
Council of Europe
May – November 2024
PRÉSIDENCE DE LA LITUANIE
Conseil de l'Europe
Mai – Novembre 2024



High-Level Conference on the European Social Charter
“a step by member States to take further commitments under the Charter”
3-4 July 2024, Vilnius, Lithuania

VILNIUS DECLARATION

1. In the Reykjavik Declaration (May 2023), the Heads of State and Government of the Council of Europe confirmed that “[s]ocial justice is crucial for democratic stability and security” and “reaffirm[ed] their] full commitment to the protection and implementation of social rights as guaranteed by the European Social Charter system”. They proposed the holding of a high-level conference on the European Social Charter (ETS No. 35, (revised) ETS No. 163, “the Charter”) “as a step to take further commitments under the Charter where possible”.
2. At the 133rd Ministerial Session on 17 May 2024, the Committee of Ministers reiterated that social justice and the Council of Europe’s action on social rights play a crucial role for democratic stability and security. The Ministers restated their commitment to the European Social Charter system and, in their decisions, underlined the importance of the Charter and its monitoring procedures, and welcomed the organisation of a high-level conference.
3. Following the principles set out in the Vienna Declaration and Programme of Action (adopted in 1993 at the World Conference on Human Rights), all “human rights are universal, indivisible, interdependent and interrelated”. These rights include social rights, such as rights related to work, education, housing, social protection, health and well-being, and the human rights aspects of the environment. Combating inequality and social exclusion is vital for all, especially for disadvantaged individuals. It is also crucial for the implementation of the Sustainable Development Goals as defined by the United Nations 2030 Agenda for Sustainable Development.
4. The Council of Europe was established in the belief “that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation”. Social progress was enshrined in the Statute of the Council of Europe (ETS No. 1) as a cornerstone of lasting peace. The Russian Federation’s ongoing war of aggression against Ukraine has had both immediate and lasting fallout as regards the enjoyment of human rights, including social rights for Ukrainians and all persons affected, and, very significantly, for women and children. The repercussions were and continue to be felt across Europe and throughout the world, including on the global economy and trade, particularly with increases in the cost of living and worsening food insecurity.

5. Social justice and the respect for, and the protection and implementation of social rights, as guaranteed in particular by the European Social Charter system, are crucial for promoting democratic security and stability. It is also very important to respond to new or emerging challenges and avoid the risk of further erosion of social rights protection and increasing inequalities, in order to maintain social cohesion in our societies.

6. Through its monitoring, reporting and collective complaints mechanisms, the Charter provides effective governance inputs, through both the European Committee of Social Rights and the Governmental Committee of the European Social Charter and European Code of Social Security (“the Governmental Committee”), in the pursuit of social justice and the protection of social rights.

7. On the occasion of this High-Level Conference, which coincides with the 25th anniversary of the entry into force of the revised European Social Charter and the 75th anniversary of the Council of Europe, the representatives of Council of Europe member States:

- a. underline the importance of having a robust and responsive social rights framework across Europe, underpinned in particular by relevant treaty law, including the European Social Charter system. It is the collective duty of member States to promote respect for, and the continuing development of, social rights, both as human rights and also as vectors of economic growth, social progress and social cohesion, peace, security and stability;
- b. affirm that military aggression and breaches of peace are incompatible with States’ human rights obligations in general, and, in particular, with their social rights obligations; in this context, welcome the solidarity shown towards the people of Ukraine and the social protection offered by Council of Europe member States to those who are temporarily displaced;
- c. acknowledge the possibility offered by the Charter for States Parties to increase progressively their commitments aimed at respecting, protecting and implementing social rights, a process that can and should be further strengthened through constructive and enhanced dialogue between the competent national authorities and the organs of the Charter, together with social partners;
- d. welcome the commitment of member States of the Council of Europe to promote social justice and, in particular, the efforts made by member States to accept a high level of commitment to social rights, and the effective action taken by the States Parties to the European Social Charter to address the findings and conclusions of the European Committee of Social Rights when necessary;
- e. recall that the Council of Europe Development Bank, in line with its unique social mandate, contributes to strengthening social cohesion through projects with social value in its member countries;
- f. welcome the decisions adopted by the Council of Europe Committee of Ministers to improve the implementation of the Charter system and its monitoring arrangements. This includes an invitation to the European Committee of Social Rights to apply, where possible, the existing Charter provisions to new and emerging social policy challenges and to strengthen the role of the Governmental Committee in respect of follow-up and reflection;
- g. acknowledge the crucial role of national executives and legislatures in strengthening the protection of social rights through legislative action, in particular the part parliaments play in the ratification process of international treaties, and the acceptance of additional commitments under the Charter.

8. Consequently, the representatives of Council of Europe member States:

- a. commit to respect, protect and implement social rights in general and, for the States Parties to the Charter, to pay continued attention to the challenges and opportunities to implement the Charter’s

requirements and, to this end, encourage States Parties to make full use of all available possibilities for enhanced dialogue between the organs of the Charter, States Parties and social partners;

- b. encourage member States to consider ratifying the revised European Social Charter (1996) in an effort, alongside the policy approaches of member States, to support the Council of Europe's stated aim of facilitating economic and social progress;
- c. propose to keep under review the possibilities for acceptance of additional commitments under the Charter, including the collective complaints procedure;
- d. invite the Committee of Ministers of the Council of Europe to:
 - i. enable further discussions with national as well as competent local and regional authorities, and social partners, in order to promote a rights-based approach to social policy and the sharing of knowledge and good practice in responding to persistent and emerging common problems and challenges. The following areas might be covered:
 - inequalities, low incomes and social exclusion, housing and demographic change;
 - any form of discrimination having an impact on the full enjoyment of social rights;
 - the social rights dimension related to the Reykjavik Declaration commitment "to [strengthen the] work on the human rights aspects of the environment";
 - persistent and emerging challenges in the area of work, with the necessary attention being paid to freedom of association and collective bargaining, new forms of employment, the transition to a green economy, digitalisation, including the advent of artificial intelligence, technological change, work-life balance and, very significantly, the questions of participation and dignity (such as the protection against all forms of harassment, including sexual harassment) in the workplace;
 - ii. give increased priority to co-operation activities in the field of social rights with a view to improving the implementation of the Charter in the light of the monitoring outcomes of the European Committee of Social Rights and related Committee of Ministers recommendations. The "social rights" component of the Council of Europe Action Plan for Ukraine "Resilience, Recovery and Reconstruction" 2023-2026, is an inspiring example of such activities;
 - iii. ensure co-operation among Council of Europe entities and committees in the area of social rights, and continue to work together while exploring possibilities to increase co-operation with other international organisations as well as with the European Union in promoting social rights as guaranteed by the European Social Charter and its protocols;
 - iv. remain open to considering possible measures for further optimising the Charter system;
 - v. explore regularly the need to convene this High-Level Conference to address contemporary social policy challenges, also taking into account the expected outcomes.