

The European Social Charter (brief presentation)

A Council of Europe Treaty safeguarding Human Rights

The **European Social Charter** (referred to below as “the Charter”) sets out rights and freedoms and establishes a supervisory mechanism guaranteeing their respect by the States Parties. It was recently revised, and the 1996 revised European Social Charter, which came into force in 1999, is gradually replacing the initial 1961 treaty.

The appended table shows **which countries have currently signed and ratified the Charter**.

Rights guaranteed by the Charter

The rights guaranteed by the Charter concern all individuals in their daily lives:

Housing:

- construction of housing in accordance with families' needs;
- reduction in the number of homeless persons;
- universally assured access to decent, affordable housing;
- equal access to social housing for foreigners;

Health:

- accessible, effective health care facilities for the entire population;
- policy for preventing illness with, in particular, the guarantee of a healthy environment;
- elimination of occupational hazards so as to ensure that health and safety at work are provided for by law and guaranteed in practice;

Education:

- a ban on work by children under the age of 15;
- free primary and secondary education;
- free vocational guidance services;
- initial and further vocational training;
- access to university and other forms of higher education solely on the basis of personal merit;

Employment:

- a social and economic policy designed to ensure full employment;
- the right to earn one's living in an occupation freely entered upon;
- fair working conditions as regards pay and working hours;
- action to combat sexual and psychological harassment;
- prohibition of forced labour;
- freedom to form trade unions and employers' organisations to defend economic and social interests; individual freedom to decide whether or not to join them;
- promotion of joint consultation, collective bargaining, conciliation and voluntary arbitration;
- the right to strike;

Social protection:

- the right to social security, social welfare and social services;
- the right to be protected against poverty and social exclusion;
- special measures catering for families and the elderly;

Movement of persons:

- simplification of immigration formalities for European workers;
- the right to family reunion;
- the right of non-resident foreigners to emergency assistance up until repatriation;
- procedural safeguards in the event of expulsion;

Non-discrimination:

- the right of women and men to equal treatment and equal opportunities in employment;
- a guarantee that all the rights set out in the Charter apply regardless of race, sex, age, colour, language, religion, opinions, national origin, social background, state of health or association with a national minority.

European Committee of Social Rights

The European Committee of Social Rights (referred to below as “the Committee”) ascertains whether countries have honoured the undertakings set out in the Charter. Its twelve independent, impartial members are elected by the Council of Europe *Committee of Ministers* for a period of six years, renewable once. The Committee determines whether or not national law and practice in the States Parties are in conformity with the Charter (Article 24 of the Charter, as amended by the 1991 *Turin Protocol*).

A monitoring procedure based on national reports

Every year the states parties submit a *report* indicating how they implement the Charter in law and in practice. Each report concerns some of the *accepted provisions* of the Charter.

The Committee examines the reports and decides whether or not the situations in the countries concerned are in conformity with the Charter. Its decisions, known as “*conclusions*”, are published every year.

If a state takes no action on a Committee decision to the effect that it does not comply with the Charter, the Committee of Ministers addresses a *recommendation* to that state, asking it to change the situation in law or in practice. The Committee of Ministers' work is prepared by a *Governmental Committee* comprising representatives of the governments of the States Parties to the Charter, assisted by observers representing European employers' organisations and trade unions¹.

A collective complaints procedure

Under a *protocol* opened for signature in 1995, which came into force in 1998, *complaints* of violations of the Charter may be lodged with the European Committee of Social Rights.

Organisations entitled to lodge complaints with the Committee

- In the case of all states that have accepted the procedure:
 1. the ETUC, UNICE and the IOE¹;
 2. *Non-governmental organisations (NGOs) with consultative status* with the Council of Europe which are on a *list* drawn up for this purpose by the Governmental Committee;
 3. Employers' organisations and trade unions in the country concerned;
- In the case of states which have also agreed to this:
 4. National NGOs.

The complaint file must contain the following information:

- a. the name and contact details of the organisation submitting the complaint;
- b. proof that the person submitting and signing the complaint is entitled to represent the organisation lodging the complaint;
- c. the state against which the complaint is directed;
- d. an indication of the provisions of the Charter that have allegedly been violated;
- e. the subject matter of the complaint, i.e. the point(s) in respect

of which the state in question has allegedly failed to comply with the Charter, along with the relevant arguments, with supporting documents.

The complaint may be submitted freely on the basis of the above, or using a form. It must be drafted in English or French in the case of organisations in categories 1 and 2 above. In the case of the others (categories 3 and 4), it may be drafted in the official language, or one of the official languages, of the state concerned.

The Committee examines the complaint and, if the formal requirements have been met, declares it admissible.

Once the complaint has been declared admissible, a written procedure is set in motion, with an exchange of memorials between the parties. The Committee may decide to hold a public hearing.

The Committee then takes a decision on the merits of the complaint, which it forwards to the parties concerned and the Committee of Ministers in a *report*, which is made public within four months of its being forwarded.

Finally, the Committee of Ministers adopts a *resolution*. If appropriate, it may *recommend* that the state concerned take specific measures to bring the situation into line with the Charter.

Effects of the application of the Charter in the various states

As a result of the monitoring system, states make many changes to their legislation or practice in order to bring the situation into line with the

Charter. Details of these results (and current developments) are described in the "Survey", published annually by the Charter Secretariat (see below).

Where to find out more about the Charter

- the Charter database <http://hudoc.esc.coe.int/>, which can be accessed online or on CD Rom, makes it easy to find out about the case-law of the European Committee of Social Rights;
- the Charter website www.esc.coe.int contains, in particular, all the national reports and country-by-country fact sheets;
- the "Survey", published annually, shows the extent to which each country's domestic law complies with the Charter;
- the "Collected texts" contain all the basic texts;
- the *summary bibliography* is regularly updated.

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¹ European Trade Union Confederation (ETUC), Union of Industrial and Employers' Confederations of Europe (UNICE) and International Organisation of Employers (IOE).

Framework Convention for the Protection of National Minorities

(Summary)

Open for signature by the member States of the Council of Europe, in Strasbourg, on 1 February 1995. Entry into force: 1 February 1998.

The Convention is the first legally binding multilateral instrument concerned with the protection of national minorities in general. Its aim is to protect the existence of national minorities within the respective territories of the Parties. The Convention seeks to promote the full and effective equality of national minorities by creating appropriate conditions enabling them to preserve and develop their culture and to retain their identity.

The Convention sets out principles relating to persons belonging to national minorities in the sphere of public life, such as:

- Non-discrimination
- Promotion of effective equality

- Promotion and preservation of culture, religion, language and traditions
- Freedom of peaceful assembly
- Freedom of association
- Freedom of expression
- Freedom of thought, conscience and religion
- The right to access to and use of the media,
- Freedoms relating to language and education
- Transfrontier contacts and co-operation
- Participation in economic, cultural and social life
- Prohibition of forced assimilation .