

- Albania and the European Social Charter -

Ratifications

Albania ratified the Revised European Social Charter on 14/11/2002 and has accepted 64 of the Revised Charter's 98 paragraphs.

Albania has not yet signed the Additional Protocol providing for a system of collective complaints.

Table of Accepted Provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	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	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

The Charter in domestic law

Automatic incorporation into domestic law based on Article 122 of the Constitution.

Reports *

Between 2005 and 2013 Albania submitted 8 reports on the application of the Revised Charter.

The [8th report](#), submitted on 15/11/2012, covers the accepted provisions relating to Thematic Group 2 "Health, Social security and Social protection" (Articles 3, 11, 12, 13, 14, 23 and 30). The conclusions in respect of these provisions were published in January 2014.

The 9th report should have been submitted by 31/10/2013 and should concern the accepted provisions relating to Thematic Group 3 "Labour rights" i.e.:

- The right to just conditions of work (Article 2)
- The right to a fair remuneration (Article 4)
- The right to organise (Article 5)
- The right to bargain collectively (Article 6)
- The right to information and consultation (Article 21)
- The right to take part in the determination and improvement of the working conditions and working environment (Article 22)
- The right of dignity at work (Article 26)
- The right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28)
- The right to information and consultation in collective redundancy procedures (Article 29)

Conclusions with respect to these provisions will be adopted in December 2014.

* [Following a decision taken by the Committee of Ministers in 2006](#), the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years. As from 2014 State Parties having accepted the complaints procedure have to provide a national report every two years only.

Situation of Albania with respect to the application of the Revised Charter

Examples of progress achieved in the implementation of social rights under the Social Charter¹

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ Law no. 9570 of 3 July 2006 amending the Employment Act defined the aim of employment policies and introduced the concept of access to public employment services.
- ▶ Law no. 9570 of 3 July 2006 amending the 1995 Employment Act defines the main aim of all employment policies and contain a clearer definition of concepts such as "jobseeker" and "employment services".

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

- ▶ The Decision of the Council of Ministers no. 762 of November 2003 obliges all enterprises employing more than 15 persons to have an occupational doctor.
- ▶ Law no. 9774 of 12 July 2007 on the evaluation and administration of noise in the environment was approved.
- ▶ Legislation has been adopted on safety of food products, health, animals, etc. in order to ensure national standards are consistent with EU ones.
- ▶ Law no. 9518 of 18 April 2006 on the protection of minors from alcohol use included measures to raise awareness among young people about alcohol-related problems.
- ▶ Law no. 9836 of 28 January 2008 created a National Food Authority.
- ▶ Law no. 9928 of 9 June 2008 established free stomatological care for children up to the age of 18.

Thematic Group 3 "Labour rights"

- ▶ Article 151§2 of the Labour Code sets an obligation of three-month notice for termination of fixed-term contracts between three and five years.
- ▶ Article 181 of the Labour Code provides for the protection of the trade union representatives and Article 202 provides for sanctions in case of violation of the rights provided for in Article 181.

Thematic Group 4 "Children, families, migrants"

- ▶ Law no. 9034 of 20 March 2003 on the Emigration of the Albanian Citizens for Employment Purposes punishes the spreading of false and unlawful information made for profitable purposes in the field of emigration.
- ▶ Article 108 of the Labour Code and the Decision of the Council of Ministers no. 397 of 20 May 1996 provide that pregnant women and breastfeeding mothers may not be obliged to start work before 5.00 am (in summer, 6.00 in winter) or work after 8.00 pm.

¹ « 1. The [European Committee of Social Rights] 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 » (Article 2 of the Rules of the Committee).

Cases of non-compliance

Thematic Group 1 "Employment, training and equal opportunities"

► *Article 1§1 – Right to work - Policy of full employment*

The number of persons which have access to active labour market measures is too low.

([Conclusions 2012](#))

► *Article 1§2 – Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

It has not been established that the restrictions on access of foreign nationals to employment are not excessive.

([Conclusions 2012](#))

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

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

([Conclusions 2012](#))

► *Article 24 – Right to protection in case of dismissal*

- It has not been established that the grounds for dismissal with notice that are considered as valid by legislation or domestic case law do not go beyond what is permitted by Article 24 of the Charter;
- The maximum compensation for unlawful termination of employment is inadequate and the legislation does not provide for the possibility of reinstatement in the private sector.

([Conclusions 2012](#))

► *Article 25 – Right of workers to protection of their claims in the event of the insolvency of their employer*

Workers claims are not effectively protected in case of insolvency of their employer under the privilege system alone.

([Conclusions 2012](#))

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

► *Article 3§1 – Right to safe and healthy working conditions - Safety and health regulations*

It has not been established that:

- Public authorities are involved in research relating to occupational health and safety, training of qualified professionals, definition of training programmes or certification of processes;
- Employers' and employees' organisations are being consulted by public authorities in practice.

([Conclusions 2013](#))

► *Article 3§2 – Right to safe and healthy working conditions - Enforcement of safety and health regulations*

- The health and safety legislation and regulations in force do not specifically cover a majority of risks;
- The level of protection against risks related to hazardous substances and agents is inadequate.

([Conclusions 2013](#))

► *Article 3§3 – Right to safe and healthy working conditions - Consultation with employers' and workers' organisations on safety and health issues*

It has not been established that:

- occupational accidents and diseases are monitored efficiently;
- There is an efficient labour inspection.

([Conclusions 2013](#))

► *Article 3§4 – Right to safe and healthy working conditions - Occupational health services*

It has not been established that there is a strategy to progressively institute access to occupational health services for all workers in all sectors of the economy.

([Conclusions 2013](#))

► *Article 11§1 – Right to protection of health - Removal of the causes of ill-health*

It has not been established that public health services operate in an effective manner.

([Conclusions 2013](#))

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

It has not been established that:

- Adequate measures have been taken to prevent smoking;
- Efficient immunisation and epidemiological monitoring programmes are in place.

([Conclusions 2013](#))

Thematic Group 3 “Labour rights”

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

Regulations permit weekly working time of more than 60 hours in various sectors of activity.

([Conclusions 2010](#))

► *Article 2§2 – Right to just conditions of work – Public holiday with pay*

Work performed on a public holiday is not compensated at a sufficiently high level.

([Conclusions 2010](#))

► *Article 2§3 – Right to just conditions of work - Annual holiday with pay*

Employees may relinquish annual leave in return for increased remuneration.

([Conclusions 2010](#))

► *Article 2§4 — Right to just conditions of work - Elimination of risks in dangerous or unhealthy occupations*

There is no prevention policy for the risks in inherently dangerous or unhealthy occupations.

Workers exposed to residual risks to health and safety cannot benefit from reduced working hours or additional paid holidays, or other sufficient compensation.

([Conclusions 2010](#))

► *Article 2§5 – Right to just conditions of work – Weekly rest period*

This provision does not apply to the great majority of the workers concerned.

([Conclusions 2010](#))

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

The minimum net wage is manifestly unfair.

([Conclusions 2010](#))

► *Article 4§4 – Right to a fair remuneration - Reasonable notice of termination of employment*

Five days' notice is insufficient for workers with fewer than three months' service, even in the probationary period.

In the case of written agreement or a collective agreement, one month is not a sufficient period of notice for workers with five or more years' service.

([Conclusions 2010](#))

► *Article 4§5 – Right to a fair remuneration - Limits to deduction from wages*

It has not been established that deductions from wages will not deprive workers and their dependents of their very means of subsistence.

([Conclusions 2010](#))

► *Article 5 – Right to organise*

Police personnel do not enjoy the right to form trade unions.

It has not been established that the prohibition from enjoying the right to form a trade union was not applied to an excessively high proportion of senior civil servants.

([Conclusions 2010](#))

► *Article 6§1 – Right to bargain collectively - Joint consultation*

It has not been established that refusals of the representative status to trade unions are subject to judicial review.

It has not been established that consultation also takes place in the public sector.

([Conclusions 2010](#))

► *Article 6§2 – Right to bargain collectively - Negotiation procedures*

It has not been established that civil servants are entitled to participate in the processes that result in the determination of the regulations applicable to them.

([Conclusions 2010](#))

► *Article 6§3 – Right to bargain collectively - Conciliation and arbitration*

The circumstances in which recourse to compulsory arbitration is authorised go beyond the limits set out in Article G of the Revised Charter.

([Conclusions 2010](#))

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

- Civil servants are denied the right to strike;
- Employees in electricity and water supply services are denied the right to strike.

([Conclusions 2010](#))

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

Employees are not granted an effective right to participate in the decision-making process within the undertaking.

([Conclusions 2010](#))

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

It has not been established that effective protection of employees against any form of moral harassment is in place.

([Conclusions 2010](#))

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

Union representatives are protected against dismissal during the performance of their functions only until their mandate expires.

([Conclusions 2010](#))

Thematic Group 4 “Children, families, migrants”

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

the definition of light work authorised by legislation is not sufficiently precise as there is no definition of the types of work which may be considered light or a list of those which are not, and the prohibition of employment under the age of 15 is not guaranteed in practice.

([Conclusions 2011](#))

► *Article 7§2 - Right of children and young persons to protection - Prohibition of employment under the age of 18 for dangerous or unhealthy activities*

The prohibition of employment under the age of 18 for dangerous or unhealthy activities is not guaranteed in practice.

([Conclusions 2011](#))

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

The effective protection against work which would deprive children subject to compulsory schooling of the full benefit of their education is not guaranteed in practice.

([Conclusions 2011](#))

► *Article 7§6- Right of children and young persons to protection - Inclusion of time spent on vocational training in the normal working time*

It has not been established that the right to have time spent on vocational training considered to be working time and remunerated as such is guaranteed in practice.

([Conclusions 2011](#))

► *Article 7§7 – Right of children and young persons to protection - Paid annual holidays*

It has not been established that young workers do not relinquish annual leave in return for increased remuneration.

([Conclusions 2011](#))

► *Article 7§10 – Right of children and young persons to protection - Special protection against physical and moral dangers*

- simple possession of child pornography is not a criminal offence;
- measures taken to combat trafficking in children are not sufficient;
- measures taken to assist and protect street children are not sufficient.

([Conclusions 2011](#))

The European Committee of Social Rights has been unable to assess compliance with the following rights and has invited the Albanian Government to provide more information in the next report in respect of the following provisions:

Thematic Group 1 “Employment, training and equal opportunities”

(Report to be submitted by 31/10/2015)

Article 20 – Conclusions 2012

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

(Report to be submitted by 31/10/2016)

Article 11§2 – Conclusions 2013

Thematic Group 3 “Labour rights”

(Report to be submitted by 31/10/2013)

Article 2§7– Conclusions 2010

Article 21 – Conclusions 2010

Thematic Group 4 “Children, families, migrants”

(Report to be submitted on 01/11/2014)

Article 7§9 – Conclusions 2011

Article 8§5 – Conclusions 2011

Article 19§3, 4, 6, 8, 10 and 12 – Conclusions 2011