

— Andorra and the European Social Charter —

Ratifications

Andorra ratified the Revised European Social Charter on 12/11/2004, accepting 79 paragraphs.

Andorra has not agreed to be bound by 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

Under Article 3(4) of the Constitution: "Treaties and international agreements take effect in the legal system from the moment of their publication in the Butlletí Oficial del Principat d'Andorra and cannot be amended or repealed by law."

Reports *

Between 2008 and 2015, Andorra submitted 8 reports on the application of the Revised Charter.

The [7th report](#), submitted on 31 October 2013, concerns the accepted provisions of the Revised Charter relating to Thematic Group 3 "Labour rights" (articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

Conclusions with respect to these provisions were published in January 2015.

The [8th report](#), submitted on 03 November 2014, concerns the accepted provisions of the Revised Charter relating to Thematic Group 4 "Children, Family, Migrants", namely:

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

In addition, the report provides the information required by the European Committee of Social Rights in the framework of Conclusions 2013 relating to Thematic Group 2 "Health, Social Security and Social Protection" (Articles 3, 11, 12, 13, 14, 23 and 30), in the event of non-conformity for lack of information.

Conclusions with respect to these situations will be published in January 2016.

* 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 Andorra with respect to the application of the Revised Charter

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

Health

- ▶ Adoption and partial entry into force of Law No. 34/2008 on safety and health at work, providing for the setting of working hours and rest periods according to the risks generated by the occupation; listing the dangerous, unhealthy or harmful activities; providing for adjustments of working time to protect pregnant or breastfeeding women and minor workers.
- ▶ Adoption and entry into force of occupational health service regulations of 14 November 2012.

Employment

- ▶ Adoption and entry into force of Law No. 35/2008 on the Labour Relations Code, which sets the weekly effective working hours at 40 for all employees, both public and private; obliges enterprises to produce working time schedules, and to take note of hours actually worked; obliges the employer to respect the principle of equality and non-discrimination in the payment of remuneration; provides for 18 paid holidays per year; fixes the annual leave to 30 calendar days; fixes the weekly rest; obliges to set out in writing certain types of employment contract, and to inform the workers in writing about the essential aspects of the employment relationship or contract; lays down the rules on night work; limits the deductions from wages, etc. ;
- ▶ Workers who cannot actually take annual paid holiday have the right to terminate the employment contract and claim the corresponding payment (judgment TSJC-072-10 of the Civil Division of the High Court of Justice of Andorra, of 23 September 2010) ;
- ▶ The minimum wage for immigrant workers set by the CSI is more than 60% of the net average wage (2012) ;
- ▶ A forfeiture of the wage is deemed null (High Justice Tribunal, Civil Branch, Judgement No. 112/12 of 15 November 2012).

Right to organise

- ▶ Adoption and entry into force of Act No. 33/2008 of 18 December 2008 on the Right to Organise, which establishes the legal framework for the application of the right to form trade unions and employers' organisations.
- ▶ Adoption and entry into force of Law No. 35/2008 containing the Code of Labour Relations, which governs workers' collective rights and collective bargaining; prohibits discrimination on the basis of membership or non-membership of a trade union; sets out the requirements for organising and joining a trade union; defines the representativeness of trade unions; etc.

Cases of non-conformity

Thematic Group 1 "Employment, training and equal opportunities"

▶ *Article 15§4 – Right to work - Vocational guidance, training and rehabilitation*

It has not been established that the right of persons with disabilities to mainstream training is effectively guaranteed.
(Conclusions 2012)

▶ *Article 15§1 – Right of persons with disabilities to independence, social integration and participation in the life of the community - Vocational training for persons with disabilities*

It has not been established that the right of persons with disabilities to mainstream education and training is effectively guaranteed.
(Conclusions 2012)

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).

► *Article 15§2 – Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities*

1. It has not been established that there are effective anti-discrimination legislation and remedies;
- 2.- It has not been established that the legal obligation to provide reasonable accommodation is respected;
- 3.- Persons with disabilities are not guaranteed an effective access to the open labour market.

(Conclusions 2012)

► *Article 15§3 – Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community*

1. It has not been established that housing, transport and telecommunications are covered by the anti-discrimination legislation;
2. It has not been established that there are effective remedies available to disabled people alleging discriminatory treatment;
3. It has not been established that disabled people have effective access to technical aids;
4. It has not been established that disabled people have effective access to housing.

(Conclusions 2012)

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

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

Self-employed workers do not enjoy adequate protection.

(Conclusions 2013)

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

It has not been established that:

1. Appropriate measures have been taken to prevent smoking,
2. Appropriate measures have been taken to prevent accidents.

(Conclusions 2013)

► *Article 13§4 – Right to social and medical assistance – Specific emergency assistance for non-residents*

It has not been established that all foreigners can receive emergency and social assistance for as long as they might require it

(Conclusions 2013)

Thematic Group 3 “Labour rights”

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

During the reference period, there was no provision in the law for workers assigned to night work to be given a medical check-up prior to taking up their duties or regular check-ups thereafter.

(Conclusions 2014)

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

The minimum inter-professional wage does not ensure a decent standard of living.

(Conclusions 2014)

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

1. The amount of severance pay awarded on termination of the employment contract is insufficient for workers with less than ten years of service;
2. The legislation does not provide for notice in the case of termination of employment during probationary periods.

(Conclusions 2014)

Thematic Group 4 “Children, families, migrants”

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

Corporal punishment is not explicitly prohibited in the home, in schools and in institutions.

(Conclusions 2011)

The European Committee of Social Rights has been unable to assess compliance with the following rights and has invited the Andorran 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 before 31 October 2015)

▶ Article 1§2 - Conclusions 2012

▶ Article 20 - Conclusions 2012

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

(Report to be submitted before 31 October 2016)

▶ Article 12§§1 and 4 – Conclusions 2013

▶ Article 13§1 – Conclusions 2013

▶ Article 14§§1 and 2 – Conclusions 2013

▶ Article 23 – Conclusions 2013

▶ Article 30 – Conclusions 2013

Thematic Group 3 “Labour rights”

(Report to be submitted before 31 October 2013)

▶ Article 4§3– Conclusions 2014

Thematic Group 4 “Children, families and migrants”

(Report to be submitted before 31/10/2014)

▶ Article 7§§1, 3, 5, 9 and 10 – Conclusions 2011

▶ Article 19§§1 and 3 – Conclusions 2011

▶ Article 31§§1 and 2– Conclusions 2011