

— Austria and the European Social Charter —

Ratifications

Austria ratified the European Social Charter on 29/10/1969 and the Revised European Social Charter on 20/05/2011, accepting 76 of the Revised Charter's 98 paragraphs.

Austria has signed, but not yet ratified, the Additional Protocol of 1995 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						Gray= Accepted provisions				

The Charter in domestic law

Statutory *ad hoc* incorporation by specific implementing legislation.

Reports*

Between 1972 and 2015, Austria submitted 29 reports on the application of the Charter and 3 reports on the application of the Revised Charter.

The [2nd report](#), submitted on 6/11/2013, covers the accepted provisions relating to Thematic Group 3 "Labour Rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

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

The [3rd report](#), submitted on 6/11/2014, covers the accepted provisions 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 4 "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 Parties submit 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 submit a national report every two years only.

Situation of Austria with respect to the application of the Charter

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

Non-discrimination (Nationality)

- ▶ Children of Turkish residents legally employed in the labour market are now entitled to the exemption certificate allowing them to work anywhere in Austria once they have lived in the country for five years (according to the terms of the Association Agreement between Turkey and the EU and the decision taken by the Association Council in 1998).
- ▶ Repeal of the nationality condition for payment of the emergency assistance (*Notstandshilfe*) (legislative amendments effective since 1 April 1998).
- ▶ Adoption of a legislation to guarantee an equal treatment between Austrian nationals and nationals of other States Parties with regard to eligibility for scholarships (entry into force on 16 February 2006)
- ▶ Removal of the three-months employment requirement for nationals of other States Parties to benefit from childcare benefits and large-families allowances.
- ▶ Repeal of Section 8§2 of the Aliens Employment Act, which required employers who were reducing manpower to make foreign workers who had entered the labour market for the first time redundant first. Section 8§2 also provided that in the event of reduced activity in the company the employment contracts of foreign nationals may be terminated if such action might prevent shorter working hours in the long run for all workers.

Non-discrimination (Sex)

- ▶ Entitlement of workers to take legal action before a court to ensure the observance of the principle of equal pay for women and men (Act of 23 February 1979 on equality of treatment).

Non-discrimination (Disability)

- ▶ Adoption of a compendium of laws prohibiting discrimination on the ground of disability in a day-to-day context (excluding working environment).

Children

- ▶ Increase of the penalty for the abuse of children under 14 years of age. Introduction of provisions stipulating that the statute of limitation in the case of certain sexual offences committed against children does not begin to run until the age of majority has been reached (amendments made in 1998 to the criminal law on sexual offences).

Employment

- ▶ Repeal of the 1885 Vagrancy Act and of Article 305 of the Criminal Code (Act of 1 January 1975).
- ▶ Adoption of a legislation on 14 January 2006 allowing all foreigners to be elected to work councils.
- ▶ Conclusion in 2009 of a framework agreement by social partners in order to reach a minimum wage of € 1,000 gross for workers in all sectors of the economy

Cases of non-conformity

Thematic Group 1 "Employment, training and equal opportunities"

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

During the reference period Article 8§2 of the Aliens Employment Act legislation required employers to make foreign workers redundant first when reducing manpower or to avoid having to reduce the working hours of all employees.

[\(Conclusions XX-1 \(2012\)\)](#)

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 10§1 – Right to vocational training – Promotion of technical and vocational training; access to higher technical and university education*

Nationals of other States Parties who are not nationals of the European Economic Area and are lawfully resident or regularly working in Austria are granted access to university education only subject to the availability of places.

[\(Conclusions XX-1 \(2012\)\)](#)

► *Article 10§4 – Right to vocational training – Encouragement for the full utilisation of available facilities*

Equal treatment of nationals of other States Parties lawfully resident or regularly working in Austria is not guaranteed with regard to fees and to financial assistance for training.

[\(Conclusions XX-1 \(2012\)\)](#)

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 are not sufficiently covered by occupational health and safety regulations.

[\(Conclusions 2013\)](#)

► *Article 12§4 – Right to social security of persons moving between States*

1. Equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;

2. Equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties.

[\(Conclusions 2013\)](#)

► *Article 13§1 – Right to social and medical assistance – Adequate assistance for every person in need*

Granting of social assistance benefits to non-EU/EEA national, who are legally residing in Austria, is subject to an excessive length of residence condition.

[\(Conclusions 2013\)](#)

Thematic Group 3: “Labour rights”

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

Public-sector employees at federal level performing dangerous or unhealthy work are not entitled to appropriate compensation measures such as reduced working hours or additional paid leave.

[\(Conclusions \(2014\)\)](#)

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

It has not been established that the lowest wage paid is sufficient to ensure a decent standard of living.

[\(Conclusions 2014\)](#)

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

The period during which the protection is granted to a workers’ representative beyond his/her mandate is not reasonable.

[\(Conclusions \(2014\)\)](#)

Thematic Group 4: “Children, families and migrants”

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

Austrian law and practice do not provide for family reunion up to the age of twenty-one for the children of all migrant workers who are nationals of States Parties of the Charter which are not party to the European Economic Area Agreement.

In the framework of the 'quota system', a waiting period which can last up to three years is excessive; the exclusion of social assistance benefits from the calculation of the worker’s income is likely to hinder family reunion rather than facilitate it;

The 'Integration Agreement' requirements are likely to hinder family reunion rather than facilitate it.

[\(Conclusions XIX-4 \(2011\)\)](#)

The Committee was unable to assess whether the following rights are respected and invited the Austrian Government to provide for additional information in its next report on the following provisions:

Thematic Group 1 "Employment, training and equal opportunities"

(Report due by 31 October 2015)

- ▶ Article 1§4 – Conclusions XX-1(2012)
- ▶ Article 9 – Conclusions XX-1 (2012)
- ▶ Article 15§1 – Conclusions XX-1 (2012)
- ▶ Article 15§2 – Conclusions XX-1 (2012)

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

(Report due by 31/10/2016)

- ▶ Article 3§1 – Conclusions 2013

Thematic Group 3: "Labour rights"

(Report due by 31/10/2013)

- ▶ Article 4§3 – Conclusions XX-3 (2014)
- ▶ Article 4§5 – Conclusions XX-3 (2014)

Thematic Group 4: "Children, families and migrants"

(Report due by 31/10/2014)

- ▶ Article 16 – Conclusions XIX-4 (2011)