

## — Azerbaijan and the European Social Charter —

### Ratifications

Azerbaijan ratified the Revised European Social Charter on 02/09/2004 and has accepted 47 of the 98 paragraphs.

It has not 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.

### Reports \*

Between 2007 and 2013 Azerbaijan submitted 7 reports on the application of the Revised Charter.

The 7<sup>th</sup> report submitted on 04/02/2014, concerns the accepted provisions relating to Thematic Group 3 "Labour Rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

The conclusions in respect of these provisions were published in January 2015.

The 8<sup>th</sup> report, which should have been submitted by 31 October 2014, should have concerned 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 of maternity (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 should concern the information required by the European Committee of Social Rights in the framework of Conclusions (2013) (Articles 3, 11, 12, 13, 14, 23 and 30 relating to Thematic group 2 "Health, social security and social protection"), in the event of non-conformity for lack of information.

Conclusions in respect of these provisions 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.

## Situation of Azerbaijan with respect to the application of the Revised Charter

### Examples of progress achieved in the implementation of social rights under the Social Charter<sup>1</sup>

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

► An agreement was signed in February 2010 by the Government, the Azerbaijan Trade Union Confederation (ATUC) and the Azerbaijan Confederation of Entrepreneurs (ACE) for the period 2010-2011. This agreement states that the population's income levels should gradually be brought to levels compatible with the requirements of the Revised Charter and a gradual approach should also be taken for calculating the minimum wage, basic pension and for the criteria of "need" used to decide on social assistance.

#### Cases of non-conformity

##### Thematic Group 1 "Employment, training and equal opportunities"

► *Article 152 - Right to work- Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

1. There is no shift in the burden of proof in discrimination cases, and
2. The prohibition on foreign nationals being employed in the civil service goes beyond that permitted by the Charter

[\(Conclusions 2012\)](#)

► *Article 154 - Right to work - Vocational guidance, training and rehabilitation*

It has not been established that the right to vocational guidance is guaranteed.

[\(Conclusions 2012\)](#)

► *Article 9 - Right to vocational guidance*

It has not been established that the right to vocational guidance is guaranteed.

[\(Conclusions 2012\)](#)

► *Article 20 – Right to equal opportunities and equal treatment in matters of employment and occupation without sex discrimination*

1. There is no shift in the burden of proof in gender discrimination cases
2. Legislation prohibits the employment of women in underground mining and other "labour intensive jobs".

[\(Conclusions 2012\)](#)

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

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

- the measures taken to reduce infant and maternal mortality rates have been insufficient;
- public healthcare expenditure, in absolute terms and as a share of GDP, is too low.

[\(Conclusions 2013\)](#)

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<sup>1</sup> « 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 11§3 – Right to protection of health – prevention of diseases and accidents*  
Legislation does not prohibit the sale and use of asbestos.  
([Conclusions 2013](#))

▶ *Article 14§1 – Right to benefit from social services - Promotion or provision of social services*  
Access to social services by nationals of other States Parties is subject to an excessive length of residence requirement.  
([Conclusions 2013](#))

### **Thematic Group 3 “Labour rights”**

▶ *Article 4§1 – Right to a fair remuneration– Decent remuneration*  
The monthly minimum wage does not ensure a decent standard of living.  
(Conclusions 2014)

▶ *Article 4§3 – Right to a fair remuneration – Non-discrimination between women and men with respect to remuneration*  
There is no shift in the burden of proof in discrimination cases.  
The unadjusted gender pay gap is manifestly too high.  
(Conclusions 2014)

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

The notice period is not reasonable in the following cases:

- dismissal on the ground of liquidation of the undertaking or reduction in the number of staff and termination of employment on account of a change in the terms and conditions of employment, beyond seven years of service;
- termination of employment on account of being called up for military service or long-term illness or disability, beyond five years of service;
- termination of employment on grounds stipulated in the employment contract, beyond three years of service;
- dismissal during the probationary period;

There is no notice period provided for in the following cases:

- dismissal for professional incompetence or lack of qualifications;
- termination of employment in the event of a change of ownership of the undertaking or the reinstatement of a former worker following a judicial decision or after military service;
- termination of employment on account of withdrawal of the worker’s driving licence or ban on performing certain duties or activities;
- termination of employment in the event of disability recorded in a judicial decision.

(Conclusions 2014)

▶ *Article 4§5 – Right to a fair remuneration – Limits to wage deductions*  
Following all authorised deductions, the wages of workers with the lowest earnings do not enable them to provide for themselves or their dependants.  
Guarantees in place to prevent workers from waiving their right to limitation of deduction from wages are insufficient.  
(Conclusions 2014)

▶ *Article 5 – Right to organise*

It has not been established that, in practice, the free exercise of the right to form trade unions is ensured in multinational companies.

It has not been established that there is an adequate and proportionate compensation to the harm suffered by a worker discriminated against for having joined a trade union.

The social and economic interests of the police are not protected by professional organisations or trade unions.

(Conclusions 2014)

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

It has not been established that the promotion of joint consultation between workers and employers on most matters of mutual interest covered by Article 6§1 is ensured.

(Conclusions 2014)

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

There is no adequate promotion of voluntary negotiations between employers or employers' organisations and workers' organisations.

(Conclusions 2014)

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

It has not been established that conciliation and arbitration facilities exist for the public sector.

(Conclusions 2014)

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

The restrictions on the right to strike for employees working in essential services do not comply with the conditions established by Article G of the Charter.

The restrictions on the right to strike for public officials do not comply with the conditions established by Article G of the Charter.

(Conclusions 2014)

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

It has not been established that:

- workers and/or their representatives have an effective right to participate in the decision-making process within undertakings with regard to working conditions, work organisation or the working environment;
- legal remedies are available to workers in the event of infringements of their right to take part in the determination and improvement of working conditions and the working environment.

(Conclusions 2014)

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

No shift in the burden of proof applies in sexual harassment cases under the Labour Code.

(Conclusions 2014)

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

It has not been established that in Azerbaijan employees are given appropriate and effective protection against moral (psychological) harassment in the workplace or in relation to work.

(Conclusions 2014)

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

It has not been established that the protection granted to workers' representatives is extended for a reasonable period after the end of period of their mandate.

(Conclusions 2014)

#### **Thematic Group 4 "Children, families, migrants"**

► *Article 7§5 – Right of children and young persons to protection – Fair pay*

The minimum wage of young workers is unfair.

([Conclusions 2011](#))

► *Article 8§1 – Right of employed women to protection of maternity – Maternity leave*

Unemployment periods are not included in the calculation of the qualifying period for maternity benefits.

([Conclusions 2011](#))

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

#### **Thematic Group 1 "Employment, training and equal opportunities"**

► Article 1§3 Conclusions 2012.

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

► Article 11§2 Conclusions 2013

#### **Thematic Group 3 "Labour rights"**

► Article 29 Conclusions 2014

#### **Thematic Group 4 "Children, families, migrants"**

► Article 7§1 Conclusions 2011

► Article 7§2 Conclusions 2011

► Article 7§3 Conclusions 2011

► Article 7§7 Conclusions 2011

► Article 7§9 Conclusions 2011

► Article 7§10 Conclusions 2011

► Article 8§5 Conclusions 2011

► Article 16 Conclusions 2011

► Article 27§1 Conclusions 2011

► Article 27§3 Conclusions 2011