

– Cyprus and the European Social Charter –

Ratifications

Cyprus ratified the European Social Charter on 07/03/1968 and the Revised European Social Charter on 27/09/2000, accepting 63 of its 98 paragraphs. In October 2011 Cyprus accepted to be bound by 9 additional provisions of the Revised Charter, bringing the total of accepted provisions to 72 of the 98 paragraphs.

It accepted the Additional Protocol providing for a system of collective complaints on 06/08/1996, but has not yet made a declaration enabling national NGOs to submit 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 ¹
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				

¹ Sub-paragraph b. accepted

The Charter in domestic law

Once published in the official Gazette, treaties concluded in accordance with the Constitution take precedence over any domestic law (including the Constitution), on condition that such treaties are applied by the other party (Arts 169 and 179 of the Constitution).

Reports *

Between 1970 and 2015, Cyprus submitted 21 reports on the application of the Charter and 11 on the application of the Revised Charter.

The 11th report, submitted on 22 May 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 12th 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.

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

Examples of progress achieved in the application of social rights under the Social Charter ¹

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ Abolition of criminal sanctions and other coercive measures as "disciplinary occupational measures" for seafarers (Act of 11 June 1976 amending the Merchant Shipping Act)
- ▶ In 2003, incorporation of *acquis communautaire* on equal treatment of men and women in employment.
- ▶ Act 113(I)/1999 on Education and Training of Children with Special Needs and its 2001 implementing regulation place emphasis on the education of the large majority of children with special needs within mainstream schools. In its decision dated 31 October 2006, the Cypriot Equality Body criticised this law holding that it introduced indirect discrimination on the ground of special needs in the field of education and asked the Attorney General to revise the law.
- ▶ Law No. 127(I)/2002 guarantees that persons with disabilities are equally treated with other employees by their employer as regards the procedure for application for employment, recruitment, promotion, dismissal, compensation, training and other terms and conditions of employment. A 2004 amendment of the law also provides for the prohibition of any direct and indirect discrimination

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

- ▶ Regulation of health and safety in agriculture and extension of the Labour Inspectorate's purview to include this sector (Act No. 22/1982).
- ▶ Preventive and protective measures against asbestos (Act No. 47(1)/2000 and Reg. No. 104/2000) in conformity with *acquis communautaire*. The Protection against Radiation Act, No. 115(I)2002 transposes Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation, and Regulation No. 497/2002 transposes Council Directive 97/43/Euratom of 30 June 1997 on health protection of individuals against the dangers of ionising radiation in relation to medical exposure.
- ▶ Screening for breast cancer was introduced in two districts in September 2003 and February 2004 respectively. The programme will be introduced in the other two districts in 2005.
- ▶ Introduction of a proper system of social security (Act No. 106/1972); introduction of General Health Scheme in 2001, covering whole population
- ▶ An individual right to free counselling is guaranteed through the social welfare services with the aim of supporting individuals and families at times of crisis.

Thematic Group 3 "Labour rights"

- ▶ Abolition of restrictions on trade unions' right to elect their own representatives freely (Act No. 381/1991 amending the Trade Unions Act); protection of union membership (Termination of Employment Acts 1967-1994 and the Trade Unions Acts 1965-1996)
- ▶ Safeguarding of police officers' right to bargain collectively (Section 52 §1 of the 1989 Police Act No. 27)
- ▶ Defence Regulations 79A and 79B, which authorised the requisitioning of workers and the prohibition of strikes in cases other than those permitted by the Revised Charter, were repealed by an Order of the Council of Ministers published in the Official Gazette on 22.09.2006.
- ▶ The Law No. 10(III)/2012, amending the Law which ratified the ILO Convention 135 regarding Workers Representatives, was adopted and contains provisions as regards workers representatives' rights to access the workplace. The amending Law clearly specifies that worker's representatives have the right to enjoy such facilities as may be necessary for the proper exercise of their functions, including access to the workplace with due respect for the rights of property and management, in order to apprise workers of the potential advantages of unionisation.

Thematic Group 4 "Children, families, migrants"

- ▶ Regulation of the prohibition of dismissal during maternity leave (Maternity Protection Act No. 54/1987, as amended by Act No. 48 (I) of 1994); possibility of court-ordered reinstatement for unlawfully dismissed employees in firms with twenty or more employees (Act No. 61 (I) 1994)

¹ « 1. The Committee 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).

- ▶ The period during which maternity allowance is paid has increased from 16 to 18 weeks (Social Insurance (Amendment) Law 110(I) of 2007)
- ▶ Prohibition of the employment of children under the age of 15 and compulsory education for all children up to the age of 15 (Protection of Young Persons at Work Act of 2001) Article 7§1 and 3 – prohibition of employment under the age of 15.

- ▶ Guarantees in the event of expulsion (Aliens and Immigration Act No. 54/1976). 2000 Regulations amending the Aliens and Immigration Act No. 54/1976 providing for the right to family reunion.
- ▶ Legal Aid Act No. 165(I) of 2002 provides for legal aid to persons with low income and for proceedings both before civil and criminal courts regarding cases in respect of violation of human rights and include family cases

Cases of non-conformity

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ *Article 15§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

The duration of alternative military service amounting to almost three years is excessive and constitutes a disproportionate restriction on the right to earn a living freely entered upon.

(Conclusions 2012)

- ▶ *Article 10§5 - Right to vocational training-- Full use of facilities available*

It has not been established that the equal treatment of nationals of other States Parties as to fees and financial assistance is guaranteed.

(Conclusions 2012)

- ▶ *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*

It has not been established that persons with disabilities are guaranteed effective protection against discrimination in employment.

(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*

It has not been established that disabled people are effectively protected against discrimination in the fields of housing, transport and cultural and leisure activities.

(Conclusions 2012)

- ▶ *Article 20 – Right to equal opportunities and treatment in employment and occupation without sex discrimination*

The employment of women in underground mining is prohibited.

(Conclusions 2012)

- ▶ *Article 24 – Right to protection in case of dismissal*

1. Employees who have not been employed with their employer for a continuous period of 26 weeks are not entitled to protection against dismissal.

2. The categories of persons excluded from protection go beyond what is allowed under the Appendix to the Charter.

(Conclusions 2012)

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

- ▶ *Article 12§1 – Right to social security – existence of a social security system*

- The minimum level of unemployment benefit is manifestly inadequate.
- The minimum level of sickness benefit is manifestly inadequate.
- The minimum level of old age benefit is manifestly inadequate.
- The minimum level of maternity benefit is manifestly inadequate.

(Conclusions 2013)

- ▶ *Article 12§4 – Right to social security – Social security of persons moving between states*

- Equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties.
- The right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.

(Conclusions 2013)

Thematic Group 3 “Labour rights”

► *Article 4§5 – Right to a fair remuneration – Limits to wage deductions*

The guarantees in place to prevent workers from waiving their right to limitation of deduction from wages are insufficient.

(Conclusions 2014)

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

The Trade Union Laws of 1955-1996 require that a decision to call a strike must be endorsed by the executive committee of a trade union.

(Conclusions 2014)

Thematic Group 4 “Children, families, migrants”

► *Article 7§1 and 7§3 – Right of children and young persons to protection - Prohibition of employment under the age of 15 – Prohibition of employment of young persons subject to compulsory education*

The prohibition on the employment of under 15 year olds does not apply to children employed in occasional or short-term domestic work

(Conclusions 2011)

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

It has not been established that children are effectively protected against the misuse of information technologies.

(Conclusions 2011)

► *Article 19§1 – Right of migrant workers and their families to protection and assistance - Assistance and information on migration*

It has not been established that appropriate steps against misleading propaganda relating to emigration and immigration have been taken.

(Conclusions 2011)

► *Article 19§4 – Right of migrant workers and their families to protection and assistance - Equality regarding employment, right to organise and accommodation*

It has not been established that migrant workers enjoy treatment which is not less favourable than that of nationals with respect to remuneration, employment and other working conditions; membership of trade unions, enjoyment of the benefits of collective bargaining; and access to housing.

(Conclusions 2011)

► *Article 19§6 (and 19§10) – Right of migrant workers and their families to protection and assistance - Family reunion*

The requirement for foreign workers wishing to be joined by their close relatives to have been residing lawfully in Cyprus for at least two years is excessive.

(Conclusions 2011)

► *Article 27§3 – Right of workers with family responsibilities to equal opportunity and treatment – Illegality of dismissal on the ground of family responsibilities*

Courts may only order reinstatement of an unlawfully dismissed employee in cases where the enterprise concerned has more than 20 employees.

(Conclusions 2011)

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

Thematic Group 1 “Employment, training and equal opportunities”

- ▶ Article 1§3 – Conclusions 2012
- ▶ Article 1§4 – Conclusions 2012
- ▶ Article 10§1 – Conclusions 2012
- ▶ Article 10§3 – Conclusions 2012
- ▶ Article 15§1 – Conclusions 2012

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

- ▶ Article 3§1 – Conclusions 2013
- ▶ Article 11§§1 and 3 – Conclusions 2013
- ▶ Article 12§3 – Conclusions 2013

Thematic Group 3 “Labour rights”

- ▶ Article 2§1 – Conclusions 2014
- ▶ Article 2§3 – Conclusions 2014
- ▶ Article 29 – Conclusions 2014

Thematic Group 4 “Children, families, migrants”

- ▶ Article 8§1 – Conclusions 2011
- ▶ Article 19§§3, 8 and 11 – Conclusions 2011

Collective Complaints and State of Procedure in Cyprus¹

Collective complaints (under examination)

None

Collective complaints (proceedings completed)

1. Complaints inadmissible or where the Committee has found no violation

Association for the Protection of All Children (APPROACH) Ltd v. Cyprus (No. 97/2013)

The European Committee of Social Rights decided to strike out the case from the list of complaints on 12 May 2014.

2. Complaints where the Committee has found a violation which has been remedied

None

3. Complaints where the Committee has found a violation and where progress has been made but not yet examined by the Committee

None

4. Complaints where the Committee has found a violation, which has not yet been remedied

None

¹ The caselaw of the Committee relative to collective complaints may be consulted on the European Social Charter website on the [Collective Complaint webpage](#). Searches on complaints may also be carried out in the [European Committee of Social Rights Caselaw database](#).