

– Denmark and the European Social Charter –

Ratifications

Denmark ratified the European Social Charter on 03/03/1965. It ratified the Additional Protocol on 27/08/1996. It has accepted 45 of the 72 paragraphs of the Charter and all 4 Articles of the Protocol.

Denmark has signed, but not yet ratified the the Revised Charter and 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	3.1	3.2	3.3
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
9	10.1	10.2	10.3	10.4	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	16	17	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
AP1	AP2	AP3	AP4	AP=Additional Protocol				Gray = Accepted provisions			

The Charter in domestic law

Statutory ad hoc incorporation by specific implementing legislation.

Reports *

Between 1968 and 2014, Denmark submitted 33 reports on the application of the Charter.

The 33rd report, submitted on 31 October 2013, covers the accepted provisions relating to Thematic Group 3 "Labour rights" (Articles 2, 4, 5, 6, 2 and 3 of the Additional Protocol). The conclusions in respect of these provisions were published in January 2015.

The 34 report, which should have been submitted by 31 October 2014, should concern the accepted provisions related to Thematic Group 4 "Children, families, 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 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 "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. As from 2014 State Parties having accepted the complaints procedure have to provide a national report every two years only.

Situation of Denmark with respect to the application of the Charter

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

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ Law No. 1385 of 21 December 2005 on equal opportunities removed the upper limit to compensation in employment discrimination cases.
- ▶ Sections 198 and 199 of the Criminal Code which provided for criminal sanctions to be applied in cases of deliberate idleness or lack of means of subsistence were repealed (Act No. 141/1999).
- ▶ Prohibition of both direct and indirect discrimination in the labour market with regard to race, colour, religion, political opinion, sexual orientation and national, social or ethnic origin (1996 Act on prohibition against discrimination in the labour market).

Thematic Group 3 "Labour rights"

- ▶ Strengthened protection against dismissal on grounds related to association membership (Act No. 285/1982 amended by Act No. 443/1990).
- ▶ The legislation relating to annual holiday with pay was amended in 2012 so that to allow the workers to interrupt their holidays in case of sickness or accident during their annual leave. The days not taken can thus be postponed, after a waiting period of up to five days per holiday year and upon presentation of medical documentation of the illness (Section 13, Subsections 3-6 of the Holiday Act, entered into force on 1 May 2012).

Thematic Group 4 "Children, families, migrants"

- ▶ The Children Act No. 460/2001 introduced new paternity rules and abolished the distinction between children born out of wedlock and legitimate children.

Cases of non-conformity

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ *Article 10§4 – Right to vocational training - Encouragement for the full utilisation of available facilities*
Nationals of other states party to the Charter and the Revised Charter residing or working lawfully in Denmark are not treated on an equal basis with Danish nationals with regard to financial assistance for education and training.

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

- ▶ *Article 15§1 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement - Education and training for persons with disabilities*
There is no legislation explicitly protecting persons with disabilities from discrimination in the field of education.

[\(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).

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

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

The principle of equal treatment for nationals of other States Parties is not guaranteed in matters of social security:

- the residence requirement imposed on nationals of states not covered by Community regulations or bound by bilateral agreement with Denmark for entitlement to an early retirement pension for persons with disabilities or to ordinary old-age pensions is excessive;
- the retention of accrued benefits for persons moving to a State Party which is not covered by Community regulations or not bound by an agreement with Denmark is not guaranteed;
- nationals of States Parties not covered by Community regulations or bound by agreements with the Denmark are not provided with the possibility of accumulating periods of insurance or employment completed in other countries.

[\(Conclusions XX-2 \(2013\)\)](#)

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

The level of the ordinary social assistance allowance (kontanthjælp) paid to persons under 25 years of age is not adequate, the level of starting allowance (starthjælp) paid to persons both under and over 25 years of age was not adequate during the reference period; and nationals of other States Parties not bound by the European Economic Area agreement or not covered by agreements concluded by Denmark may have their residence permit withdrawn on the sole ground of being in receipt of social assistance for more than six months, unless they have resided in Denmark for more than seven years.

[\(Conclusions XX-2 \(2013\)\)](#)

► *Article 4 of the Additional Protocol – Right of the elderly to social protection*

It has not been established that there is an adequate legal framework to combat age discrimination outside employment.

[\(Conclusions XX-2 \(2013\)\)](#)

Thematic Group 3 "Labour rights"

► *Article 5 - Right to organise*

Legislation on the International Ships Register provides that collective agreements on wages and working conditions concluded by Danish trade unions are only applicable to seafarers resident in Denmark.

(Conclusions XX-3 (2014))

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

The right to collective bargaining of non-resident seafarers engaged on vessels entered in the International Shipping Register is restricted.

(Conclusions XX-3 (2014))

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

Civil servants employed under the Civil Service Act are denied the right to strike;

The workers who are not members of a trade union having called a strike are prevented from participating in the strike unless they join the relevant trade union, and they do not enjoy the same protection as the trade union members if they participate in a strike.

(Conclusions XX-3 (2014))

Thematic Group 4 "Children, families, migrants"

► *Article 16 – Right of the family to social, legal and economic protection*

The length of residence requirements for ordinary and special child allowances are excessive.

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

► *Article 17 – Right of mothers and children to social and economic protection*

1. The prison sentence for minors may be up to 20 years, which is excessive
2. Minors can be subject to 8 months of pre-trial detention which may be further extended, which is excessive;
3. Solitary confinement of minors may last 4 weeks, which is excessive

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

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

Thematic Group 1 “Employment, training and equal opportunities”

- Article 18§2 - Conclusions XX-1 (2012)
- Article 1 of the Additional Protocol - Conclusions XIX-1 (2012)

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

Thematic Group 3 “Labour rights”

- Article 2§2 - Conclusions XX-3 (2014)
- Article 4§2 - Conclusions XX-3 (2014)
- Article 4§3 - Conclusions XX-3 (2014)

Thematic Group 4 “Children, families, migrants”

- Article 8§1 - Conclusions XIX-4 (2011)