



European
Social
Charter

Charte
sociale
européenne



— Luxembourg and the European Social Charter —

Ratifications

Luxembourg ratified the European Social Charter on 10/10/1991, accepting 69 of the Charter's 72 paragraphs.

It has signed the Revised European Social Charter on 11/02/1998 but has not yet ratified it.

It has signed, but has not yet ratified, the Additional Protocol of 1988 and the Amending Protocol of 1991.

It has neither signed nor 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	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				Grey = Accepted provisions			

The Charter in domestic law

Automatic incorporation into domestic law.

Reports *

Between 1993 and 2015, Luxembourg submitted 18 reports on the application of the Charter.

The 17th report, submitted on 05/09/2014, covers 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 18th report, which should have been submitted by 31/10/2014, concerns 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.

The conclusions with respect to 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 Luxembourg with respect to the application of the Charter

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

Social Protection

▶ The minimum age requirement for entitlement to the guaranteed minimum wage has been lowered to 25 years and the condition of residence reduced to 5 years (Act of 29 April 1999, as amended by Act of 16 January 2001).

Education

▶ Education is now compulsory until 16 years. Consequently, those under 16 years cannot work for 8 hours a day or 40 hours a week (Compulsory Schooling Act of 6 February 2009).

Employment

▶ It is now forbidden to give a woman notice of dismissal during maternity leave and a woman unlawfully dismissed may now request that her dismissal be annulled and that she be maintained in her job (Act of 7 July 1998).

Non-discrimination (Disability)

▶ Adoption of an Anti-Discrimination Act which comprises a general ban on direct and indirect discrimination in society on grounds including disability (28 November 2006)

▶ Adoption of an Anti-Discrimination Act which prohibits direct and indirect discrimination on the ground of disability in relations between public-sector workers and their employers (29 November 2006)

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 restrictions on access to employment in the public service for non-nationals are excessive.

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

▶ *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 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*

It has not been established that people with disabilities are guaranteed an effective right to mainstream training.

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

▶ *Article 15§2 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement - Employment of persons with disabilities*

It has not been established that people with disabilities are guaranteed effective equal access to employment.

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

¹ « 1. The [European Committee of Social Rights] ... rules on the conformity of national situations with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions in 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*

1. Equal treatment with regard to social security rights is guaranteed to nationals of all other States Parties;
2. Equal treatment with regard to family allowances is guaranteed to nationals of all other States Parties.
([Conclusions XX-2 \(2013\)](#))

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

1. It is not established that people in need aged below 25 are all entitled to a guaranteed minimum income;
2. It is not established that people dismissed for serious misconduct, who are in need, are entitled to a guaranteed minimum income;
3. Foreigners in need, nationals of States Parties to the Charter, lawfully resident in Luxembourg are not entitled to a guaranteed minimum income on an equal footing with nationals;
4. It is not established that people in need, who are not entitled to a guaranteed minimum income (persons aged below 25, persons dismissed for serious misconduct, persons not complying with employment integration schemes, non EU/EEA or Swiss nationals resident for less than five years), have access to adequate social assistance under the Social Assistance Act 2009.
([Conclusions XX-2 \(2013\)](#))

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

It is not established that legislation and practice guarantee that all unlawfully present foreigners receive emergency social assistance for as long as they might require it.
([Conclusions XX-2 \(2013\)](#))

► *Article 14§1 – The right to benefit from social services– Promotion or provision of social services*

1. Monitoring arrangements for guaranteeing the quality of the social services supplied by providers do exist;
2. Spending on social services is sufficient.
([Conclusions XX-2 \(2013\)](#))

► *Article 14§2– The right to benefit from social services– Public participation in the establishment and maintenance of social services*

It has not been established that monitoring arrangements for guaranteeing the quality of the social services supplied by providers do exist.
([Conclusions XX-2 \(2013\)](#))

Thematic Group 3 “Labour rights”

► *Article 2§4 – Right to just conditions of work - Right to compensatory time off in dangerous occupations.*

It has not been established that, despite the risk elimination policy, workers exposed to health risks in their work are entitled to appropriate compensation.
([Conclusions XX-3 \(2014\)](#))

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

The minimum wage for private sector workers does not ensure a decent standard of living
([Conclusions XX-3 \(2014\)](#))

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

After authorised deductions, the wages of employees with the lowest pay do not enable them to provide for themselves or their dependants.
([Conclusions XX-3 \(2014\)](#))

► *Article 5 – Right to organise*

National law does not permit trade unions to freely choose their candidates in joint works council elections, regardless of their nationality.
([Conclusions XX-3 \(2014\)](#))

Thematic Group 4 “Children, families, migrants”

▶ *Article 8§2 – Right of employed women to protection – Illegality of dismissal during maternity leave*

It has not been established that, where there is no reinstatement, compensation that is sufficient both to fully compensate the victim of an unlawful dismissal and to deter the employer is provided for in law.

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

▶ *Articles 19§4 and 19§10 – Right of migrant workers and their families to protection and assistance – Right to equal treatment in trade union matters; – Equal treatment for the self-employed*

1. It has not been established that migrant workers lawfully resident in the country are treated no less favourably than Luxembourg nationals with regard to remuneration and other working conditions ;

2. Certain categories of workers cannot be elected to joint works councils;

3. It has not been established that migrant workers lawfully resident in the country are treated no less favourably than Luxembourg nationals with regard to accommodation.

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

▶ *Articles 19§8 and 19§10 – Right of migrant workers and their families to protection and assistance – Guarantees concerning deportation; – Equal treatment for the self-employed*

A permit to reside may be revoked where an individual has insufficient personal resources in circumstances which go beyond those permitted by the 1961 Charter.

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

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

Thematic Group 1 “Employment, training and equal opportunities”

(Report to be submitted before 31 October 2015)

▶ Article 1§3 - Conclusions XX-1 (2012)

▶ Article 10§4 - Conclusions XX-1 (2012)

▶ Article 18§1 - Conclusions XX-1 (2012)

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

(Report to be submitted before 31 October 2016)

▶ Article 3§2 - Conclusions XX-2 (2013)

▶ Article 11§2 - Conclusions XX-2 (2013)

▶ Article 12§1 - Conclusions XX-2 (2013)

Thematic Group 3 “Labour rights”

(Report to be submitted before 31 October 2013)

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

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

Thematic Group 4 “Children, families, migrants”

(Report to be submitted before 31 October 2014)

▶ Article 7§3 – Conclusions XIX-4 (2011)

▶ Article 7§5 – Conclusions XIX-4 (2011)

▶ Article 7§10 – Conclusions XIX-4 (2011)

▶ Article 17 – Conclusions XIX-4 (2011)

▶ Article 19§6 – Conclusions XIX-4 (2011)