

— The Republic of Moldova and the European Social Charter —

Ratifications

The Republic of Moldova ratified the Revised European Social Charter on 08/11/2001, accepting 63 of the 98 paragraphs of the Charter.

It has not accepted 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										

Grey = accepted provisions

The Charter in domestic law

Article 4 of the Constitution: "1. Constitutional provisions concerning human rights and freedoms shall be understood and implemented in accordance with the Universal Declaration of Human Rights, and with other conventions and treaties to which the Republic of Moldova is party. 2. Wherever disagreements appear between conventions and treaties signed by the Republic of Moldova and her own national laws, priority shall be given to international regulations."

Reports *

Between 2004 and 2014, the Republic of Moldova submitted 10 reports on the application of the Charter.

The [10th report](#), submitted by the Republic of Moldova on 7 January 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 11th 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 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 "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.

The situation of the Republic of Moldova with respect to the application of the Revised Charter

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

General

- ▶ Adoption of the national action plan on human rights (2004-2008).
- ▶ Adoption of a national action plan for 2006 – 2009 was designed to strengthen the protection against harassment at work.

Health

- ▶ Adoption, as part of the United Nations Millennium Development Goals, of a strategy for economic growth and poverty reduction (2004-2006), two of whose main indicators are reductions in the infant and maternal mortality rates by 2006.
- ▶ Adoption of the Occupational Health and Safety Act adopted by the Moldovan Parliament on 10 July 2008 and which has entered into force on 1 January 2009.
- ▶ By Decision No. 886 of 6 August 2007, the Government of Moldova approved a national health policy who sets out the priorities for the next fifteen years.

Children/education

- ▶ Adoption of an "education for all" strategy in 2003, with the aim of increasing enrolment rates in pre-school establishments to 75% and in primary schools to 100% by 2007, and of reducing disparities between rural and urban areas and between disadvantaged sectors of the population and those on average incomes.

Non-discrimination (sex)

- ▶ Adoption in 2003 of a national plan to promote equality of the sexes in society.

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

- ▶ Law No. 156-XVI on the organisation of (alternative) civil service brought the length of non-military national service into line with that of military service (12 months).

Cases of non-conformity

Thematic Group 1 "Employment, training and equal opportunities"

▶ Article 1§1 - Right to work-Paragraph 1 - Policy of full employment

It has not been established that employment policy efforts have been adequate in combatting unemployment and promoting job creation.

[\(Conclusions 2012\)](#)

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

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. 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).

It has not been established that discrimination on the ground of age is prohibited ;discrimination on the ground of sexual orientation is not prohibited; nationals of other States Parties do not have access to civil service jobs; and exceptions to the general prohibition of forced labour are too wide.

[\(Conclusions 2012\)](#)

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

It has not been established that the right to vocational guidance within the education system and labour market is guaranteed; that the right to vocational guidance within the education system and labour market is guaranteed; that continuing vocational training services operate in an efficient manner; nor that the right of persons with disabilities to mainstream training is effectively guaranteed and there is no legislation explicitly protecting persons with disabilities from discrimination in training.

[\(Conclusions 2012\)](#)

► *Article 9 – Right to vocational guidance*

It cannot be established that the right to vocational guidance within the education system and labour market is guaranteed.

[\(Conclusions 2012\)](#)

► *Article 15§1 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Vocational training for persons with disabilities*

There is no legislation explicitly protecting persons with disabilities from discrimination in education and training and the right of persons with disabilities to mainstream education and training is not effectively 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 people with disabilities are guaranteed effective protection against discrimination in employment.

[\(Conclusions 2012\)](#)

► *Article 18 - Right to engage in a gainful occupation in the territory of other States Parties-Paragraph 3 - Liberalising regulations*

Termination of employment contract of the foreign worker leads to cancellation of the temporary residence permit thus obliging him/her to leave the country as soon as possible.

[\(Conclusions 2012\)](#)

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

Legislation prohibits the employment of women in heavy work and in underground work.

[\(Conclusions 2012\)](#)

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

► *Article 351 – Right to safe and healthy working conditions – Occupational health services*

The public authorities' involvement in research relating to occupational health and safety as well as in the training of qualified professionals is inefficient.

[\(Conclusions 2013\)](#)

► *Article 352 – Right to safe and healthy working conditions – Safety and health regulations*

- levels of protection against asbestos and ionising radiation are inadequate;
- self-employed workers are not adequately protected.

[\(Conclusions 2013\)](#)

- ▶ *Article 3§3 – Right to safe and healthy working conditions – Enforcement of safety and health regulations*
 - the occupational accident reporting system is inefficient;
 - measures taken to reduce the excessive number of fatal accidents are insufficient;
 - the labour inspection system is inefficient.

[\(Conclusions 2013\)](#)

- ▶ *Article 11§1 – Right to protection of health - Removal of the causes of ill-health*
insufficient efforts have been undertaken to reduce the prevailing high infant and maternal mortality rates.

[\(Conclusions 2013\)](#)

- ▶ *Article 11§2 – Right to protection of health - Advisory and educational facilities*

It has not been established that:

- screening for diseases responsible for high levels of mortality is available;
- free medical supervision is provided throughout the period of schooling.

[\(Conclusions 2013\)](#)

- ▶ *Article 11§3 – Right to protection of health - Prevention of diseases and accidents*

It has not been established that:

- there are adequate measures protecting the population from the risks of asbestos;
- adequate measures have been taken to prevent smoking;
- efficient immunisation and epidemiological monitoring programmes are in place;
- there are adequate measures in force for the prevention of accidents.

[\(Conclusions 2013\)](#)

- ▶ *Article 12§1 – Right to social security – Existence of a social security system least equal to that required for the ratification of the European Code of Social Security*

- it has not been established that the minimum level unemployment benefit is adequate;
- the minimum level of old-age benefit is manifestly inadequate.

[\(Conclusions 2013\)](#)

- ▶ *Article 12§2 – Right to social security – Maintenance of a social security system at a satisfactory level at least equal to that required for the ratification of the European Code of Social Security*

It has not been established that the Republic of Moldova maintains a social security system at a level at least equal to that necessary for the ratification of the European Code of Social Security.

[\(Conclusions 2013\)](#)

- ▶ *Article 12§3 – Right to social security – Development of the social security system*

Efforts made to progressively raise the system of social security to a higher level are inadequate.

[\(Conclusions 2013\)](#)

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

It has not been established:

- that the level of social assistance paid to a single person without resources is adequate;
- that the level of social assistance paid to elderly people without resources is adequate, and
- that people lacking resources are entitled to obtain, free of charge, the medical assistance required by their health condition.

[\(Conclusions 2013\)](#)

Thematic Group 3 “Labour rights”

- ▶ *Article 2§3 - Right to just conditions of work - Annual holiday with pay*

The law allows, in certain circumstances, that all annual leave to be carried over to the following year, without guaranteeing the workers’ right to take at least two weeks’ uninterrupted holiday during the year the holidays are due.

(Conclusions 2014)

► *Article 257 - Right to just conditions of work - Night work*

The legislation makes no provision for a medical check-up before being assigned to night work.

(Conclusions 2014)

► *Article 454 - Right to a fair remuneration - Reasonable notice of termination of employment*

- As a general rule, no notice period and/or severance pay in lieu thereof is applicable to dismissal in the private sector, or termination of duties in the public sector.
- With regard to the particular situations in which provision has been made for notice or severance pay in lieu thereof, the period or amount is not reasonable as regards:
 - dismissal on the ground of the employee's unsuitability, beyond three years of service;
 - termination of duties in the public sector as a result of liquidation, refusal to accept a geographical transfer or staff reductions, beyond three years of service;
 - termination of duties in the public sector on other grounds, beyond three months of service.

(Conclusions 2014)

► *Article 455 - Right to a fair remuneration - Limits to deduction from wages*

After all authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves and their dependants.

(Conclusions 2014)

► *Article 5 - Right to organise*

- Trade unions not operating nationwide are required to belong to a national, sectoral or inter-sectoral trade union in order to acquire legal personality which unduly restricts the right to form trade unions;
- It has not been established that compensation and penalties are provided for by law in case of discrimination based on trade union membership;
- It has not been established that the national law is applied in such a way that it does not impair the freedom to register a trade union.

(Conclusions 2014)

► *Article 652 - Right to bargain collectively - Negotiation procedures*

It has not been established that voluntary negotiations between employers or employers' organisations and workers' organisations are promoted in practice.

(Conclusions 2014)

► *Article 654 - Right to bargain collectively - Collective action*

- The restrictions to the right to strike for public officials and employees in sectors such as the public administration, state security sectors and national defence do not comply with the conditions established by Article G of the Charter.
- The right to strike is denied to all employees in electricity and water supply services, telecommunication and air traffic control.
- It is not established that the restrictions to the right to strike of the employees of the customs authorities comply with the conditions established by Article G of the Charter.
- The restrictions imposed on workers on strike to protect the enterprise installations and equipment and to ensure their uninterrupted functioning do not comply with the conditions established by Article G of the Charter.

(Conclusions 2014)

► *Article 2652 - Right to dignity in the workplace - Moral harassment*

It has not been established that 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:

- workers' representatives, other than trade union representatives are guaranteed protection against dismissal or prejudicial acts other than dismissal where they are exercising their functions outside the scope of collective bargaining;
- facilities identical to those afforded to trade union representatives are provided to other workers' representatives.

(Conclusions 2014)

Thematic Group 4 "Children, families, migrants"

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

Sufficient measures have not been taken to guarantee the prohibition on employment before the age of 15 in practice.

([Conclusions 2011](#))

► *Article 7§2 – Right of children and young persons to protection - Prohibition of employment under the age of 18 for dangerous or unhealthy activities*

It has not been established that the labour inspectorate supervises work carried out by persons under the age of 18 which might be considered dangerous or unhealthy.

([Conclusions 2011](#))

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

It has not been established that permitted working hours during the school year are sufficiently limited so as not to affect the child's school attendance, receptiveness and homework.

([Conclusions 2011](#))

► *Article 7§4 – Right of children and young persons to protection - Working time for young persons under 18*

It has not been established that the Republic of Moldova took sufficient measures to guarantee the limitation of the working hours of persons under 18 years of age in practice.

([Conclusions 2011](#))

► *Article 7§7 – Right of children and young persons to protection – Paid annual holidays*

It has not been established that the Republic of Moldova took sufficient measures for the minimal length of four weeks' annual holiday with pay for employed persons of under 18 years of age to be respected in practice.

([Conclusions 2011](#))

► *Article 7§8 – Right of children and young persons to protection – Prohibition of night work*

It has not been established that the Republic of Moldova took sufficient measures to guarantee the respect of the prohibition of night work for employed persons of under 18 years of age in practice.

([Conclusions 2011](#))

► *Article 7§9 – Right of children and young persons to protection – Regular medical examination*

It has not been established that the Republic of Moldova took sufficient measures to ensure that employed persons of under 18 years of age undergo regular medical control in practice.

([Conclusions 2011](#))

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

1. The enforcement of anti-trafficking legislation remains weak;
2. It has not been established that children are effectively protected against the misuse of information

technologies.

([Conclusions 2011](#))

► *Article 17§1 – Right of mothers and children, to social, legal and economic protection – Assistance, education and training*

1. Corporal punishment of children is not prohibited;
2. It has not been established that children in public care receive the sufficient degree of protection and assistance;
3. Young offenders may be held in adult detention facilities.

([Conclusions 2011](#))

► *Article 17§2 – Right of mothers and children, to social, legal and economic protection – Free primary and secondary education - regular attendance at school*

1. Measures taken to increase the enrolment rate in secondary schools are not sufficient;
2. Measures taken to increase the school enrolment rate of vulnerable groups are not sufficient.

([Conclusions 2011](#))

► *Article 19§8 – Right of migrant workers and their families to protection and assistance - Guarantees concerning deportation*

1. It has not been established that the grounds for the expulsion of a migrant worker are those permitted by the Charter;
2. It has not been established that there are adequate rights to appeal against a decision to expel a migrant worker;
3. It has not been established that members of a migrant worker's family may remain in the territory.

([Conclusions 2011](#))

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

Thematic Group 1 "Employment, training and equal opportunities"

(Report to be submitted by 31 October 2015)

- Article 24 - Conclusions 2012

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

(Report to be submitted by 31 October 2016)

Thematic Group 3 "Labour rights"

- Article 2§2 - Conclusions 2014
- Article 2§4 - Conclusions 2014
- Article 4§3 - Conclusions 2014
- Article 6§3 - Conclusions 2014
- Article 26§1 – Conclusions 2014
- Article 29 – Conclusions 2014

Thematic Group 4 "Children, families, migrants"

(Report to be submitted by 31 October 2014)

- Article 8§1 - Conclusions 2011