

## – Slovenia and the European Social Charter –

### Ratifications

Slovenia ratified the Revised European Social Charter on 07/05/1999 and accepted 95 of its 98 paragraphs.

It accepted the Additional Protocol providing for a system of collective complaints on 07/05/1999, 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
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 2000 and 2015, Slovenia submitted 14 reports on the application of the Revised Charter.

The [13<sup>th</sup> report](#), submitted on 07/01/2014, concerns the accepted provisions of the Revised Charter relating to Thematic Group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29 of the Revised Charter). Conclusions in respect to these provisions were published in January 2015.

The [14<sup>th</sup> report](#), submitted on 09/03/2015, concerns the accepted provisions of the Revised Charter relating to Thematic Group 4 "Children, family, migrants" i.e.

- 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).

Conclusions in 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 Slovenia with respect to the application of the Revised Charter

### Examples of progress achieved following conclusions or decisions of the European Committee of Social Rights<sup>1</sup>

#### Employment

- ▶ The Minimum Wage Act of 11 February 2010 (No. 13/2010) amended the calculation basis, the adjustment method and the amount of the monthly minimum wage (€593 in 2009; €679 in 2010 and €763 in 2012). The minimum wage was 50% of the gross average income in 2012. The long-term situation with regard to wages has improved – *Article 4§1 – Decent remuneration*
- ▶ The Employment Act (2003) provides for an increase in paid holidays – *Article 2§3 – Annual holiday with pay*
- ▶ The new Employment Relations Act provides protection against notice of termination of contract and dismissal during worker's pregnancy. A woman unlawfully dismissed is entitled to be reinstated – *Article 8§2 – Illegality of dismissal during maternity leave*
- ▶ The Employment Act (2002) introduces the right to time off for nursing mothers – *Article 8§3 – Time off for nursing mothers*
- ▶ Family Relations Act which entered into force in January 2003 regulates protection of parents from dismissal during pregnancy or breastfeeding – *Article 27§3 – Prohibition of dismissal for reasons relating to family responsibilities*
- ▶ The Employment Relations Act (2002) guarantees for workers a reasonable period of notice for termination of employment based on two criteria: the reasons for terminating the contract and the length of service, which are in conformity with the Charter – *Article 4§4 – Right to reasonable notice of termination of employment*

#### Social Protection

- ▶ The Parental Care and Family Benefits Act entered into force on 1 January 2002. It contains provisions on maternity leave, paternal leave, childcare leave and adoption leave – *Article 12§3 – Development of the social security system*

#### Non-discrimination

- ▶ The Employment Act (2002) contains provisions against discrimination in employment – *Article 1§2 – Non-discrimination in employment*
- ▶ A Constitutional Court decision in February 2003 overturned the provision of the existing regulation stipulating that Slovenian nationals were favoured for receiving national grants – *Article 10§5 – Right to financial assistance*
- ▶ The Parental Care and Family Benefits Act which entered into force on 1 January 2002, abolished the condition of nationality to which the childbirth allowance was subjected – *Article 12§4 – Equal treatment in social security matters*
- ▶ An act on rehabilitation and employment of persons with disabilities will enter into force in 2004 – *Article 15§§1 and 2 – Right of disabled persons to training and employment*
- ▶ The new Aliens Act which entered into force in November 2002 abolished the housing condition for migrant workers who wished to be joined by their families – *Article 19§§6 – Family reunion.*
- ▶ The Ministry of Education no longer authorises the creation in schools of special classes for Roma children. A special working group on integration strategies into the school system for Roma has been established – *Article 17§1 – Right of children and young persons to social, legal and economic protection*
- ▶ Article 14 of the Constitution has been amended in order to guarantee equality irrespective of personal circumstances, including disability. The Principle of Equal Treatment Act guarantees equal treatment for persons with disabilities in the fields of employment, labour relations, education, etc. –

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<sup>1</sup> « 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).

*Article 15 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement*

► *Integration and participation of persons with disabilities in the life of the community – Article 15§§1 and 3 – Vocational training for persons with disabilities*

► The 2003 Employment Relations Act (ERA) prohibits discrimination on the ground of disability with respect to recruitment, employment and work conditions and dismissal in both the public and private sectors – *Article 15§2 – Employment of persons with disabilities*

## **Cases of non-conformity**

### **Thematic Group 1 “Employment, training and equal opportunities”**

► *Article 1§4 – Right to work – Vocational guidance, training and rehabilitation*

It has not been established that the right of children with disabilities, and particularly children with intellectual disabilities, to mainstream training is effectively 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*

It has not been established that the right of persons with disabilities, in particular with intellectual disabilities, to mainstream education and training is 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 persons with disabilities are guaranteed an effective equal access to employment.

(Conclusions 2012)

► *Article 20 – Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of gender*

During the reference period women were prohibited from working in underground mines, and were prohibited from night work in industry and in the construction sector.

(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 levels of sickness and unemployment benefits are manifestly inadequate.
- The duration of unemployment benefit is too short.
- The minimum level of pension 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 social security rights is not guaranteed to nationals of all other States Parties.
- Equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties.
- It has not been established that the retention of accrued benefits is guaranteed to nationals of all other States Parties.
- It has not been established that the right to maintenance of accruing rights is guaranteed to nationals of all other States Parties.

(Conclusions 2013)

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

► *Article 2§1 – Right to just conditions of work – Reasonable working time*

In some collective agreements on-call time spent at home in readiness for work during which no effective work is undertaken is assimilated to rest periods.

(Conclusions 2014)

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

- Notice periods are not reasonable for employees with more than three years of service in the following circumstances:
  - Dismissal in companies with ten employees or fewer in accordance with some collective agreements.
  - Receivership or liquidation.
  - Ordinary dismissal for economic reasons.
- No notice period is provided for in the following circumstances:
  - Dismissal on refusal to transfer a contract to a successor employer.
  - Dismissal during probationary periods.
  - Expiry of work permits.
  - Liquidation where no administrator has been appointed.

(Conclusions 2014)

**Thematic Group 4 “Children, families, migrants”**

► *Article 7§5 – Right of children and young persons to protection – Right of young workers to fair pay*  
Apprentices do not enjoy a right to appropriate allowances.

(Conclusions 2011)

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

- It has not been established that Roma families have sufficient legal protection.
- Equal treatment of nationals of other States Parties to the 1961 Charter or the Charter in the payment of family benefits is not ensured because the length of residence requirement is excessive.

(Conclusions 2011)

► *Article 17§1 – Rights of the family to social, legal and economic protection – Assistance, education and training*

Corporal punishment in the home is not prohibited.

(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 Slovenian authorities took appropriate steps against misleading propaganda relating to emigration and immigration.

(Conclusions 2011)

► *Article 19§3 – Right of migrant workers and their families to protection and assistance – Co-operation between social services of emigration and immigration States*

It has not been established that Slovenian authorities promoted co-operation between social services, public and private, in emigration and immigration countries.

(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 concerning remuneration, employment and other working conditions, the treatment of migrant workers is not less favourable than that of nationals.
- It has not been established that concerning membership of trade union and enjoyment of the benefits of collective bargaining the treatment of migrant workers is not less favourable than that of nationals.
- Equal treatment and adequate conditions are not secured for migrant workers with respect to access to housing.

(Conclusions 2011)

► *Article 19§10 – Right of migrant workers and their families to protection and assistance – Equal treatment for the self-employed*

The same ground for which it is not in conformity with paragraphs 1, 4 and 11 of the same Article. (Conclusions 2011)

► *Article 19§11 – Right of migrant workers and their families to protection and assistance – Teaching language of host State*

A two year residence requirement for access to free Slovenian language classes is excessive. (Conclusions 2011)

► *Article 31§1 – Right to housing – Adequate housing*

- The criteria for adequate housing concerning size do not apply to housing available for rent on the free market resulting in substandard housing conditions for some migrant workers.
- Insufficient measures were taken by public authorities to improve the substandard housing conditions of a considerable number of Roma in Slovenia.
- The inadequate legal solutions for tenants of denationalised flats prevent them from effectively exercising their right to housing.

(Conclusions 2011) [Collective Complaint No. 53/2008](#)

► *Article 31§2 – Right to housing – Adequate housing*

The measures currently in place to reduce the number of homeless persons are inadequate in quantitative terms.

(Conclusions 2011)

► *Article 31§3 – Right to housing – Affordable housing*

- Nationals of other Parties to the Charter and to the 1961 Charter lawfully residing or working regularly in Slovenia are not entitled to equal treatment regarding eligibility for non-profit housing.
- The supply of non-profit housing is inadequate and the remedies in case of excessive length of waiting period are not effective.
- The specific situation of tenants living in restituted denationalised flats is not sufficiently taken into account, thus hindering their effective access to affordable housing.

(Conclusions 2011) [Collective Complaint No. 53/2008](#)

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

**Thematic Group 1 “Employment, training and equal opportunities”**

(Report to be submitted before 31 October 2015)

- Article 10§1 – Conclusions 2012
- Article 10§2 – Conclusions 2012
- Article 10§3 – Conclusions 2012
- Article 10§5 – Conclusions 2012
- Article 18§3 – Conclusions 2012
- Article 24 – Conclusions 2012

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

(Report to be submitted before 31 October 2016)

- Article 3§3 – Conclusions 2013
- Article 3§4 – Conclusions 2013

- ▶ Article 23 – Conclusions 2013

**Thematic Group 3 “Labour Rights”**

(Report to be submitted before 31 October 2017)

- ▶ Article 2§2 – Conclusions 2014
- ▶ Article 4§1 – Conclusions 2014
- ▶ Article 4§3 – Conclusions 2014
- ▶ Article 4§5 – Conclusions 2014

**Thematic Group 4 “Children, families, migrants”**

(Report to be submitted before 31 October 2018)

- ▶ Article 7§4 – Conclusions 2011
- ▶ Article 7§6 – Conclusions 2011
- ▶ Article 7§7 – Conclusions 2011
- ▶ Article 7§9 – Conclusions 2011
- ▶ Article 7§10 – Conclusions 2011
- ▶ Article 8§1 – Conclusions 2011
- ▶ Article 8§2 – Conclusions 2011
- ▶ Article 8§3 – Conclusions 2011
- ▶ Article 19§2 – Conclusions 2011
- ▶ Article 19§6 – Conclusions 2011
- ▶ Article 19§8 – Conclusions 2011
- ▶ Article 27§3 – Conclusions 2011

## Collective Complaints and State of Procedure in Slovenia<sup>2</sup>

### Collective complaints (under examination)

*None*

### Collective complaints (proceedings completed)

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

*None*

#### 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

*Association for the Protection of All Children (APPROACH) Ltd v. Slovenia* (No. 95/2013)

Decision on the merits of 5 December 2014.

- Violation of Article 17§1 of the Charter (the right of children and young persons to social, legal and economic protection).

*Fédération européenne des associations nationales travaillant avec les Sans-abri (FEANTSA) v. Slovenia* (No. 53/2008)

Decision on the merits of 8 September 2009.

- Violation of Articles 31 (right to housing) and 16 (the right of the family to social, legal and economic protection) in conjunction with Article E of the Revised Charter.

Resolution CM/ResChS(2011)7 of 15 June 2011.

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<sup>2</sup> 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](#).