

— Turkey and the European Social Charter —

Ratifications

Turkey ratified the Revised European Social Charter on 27/06/2007 and has accepted 91 of the revised Charter's 98 paragraphs (it had previously ratified the 1961 Charter on 24/11/1989).
It has not accepted the collective complaints procedure.

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 and superiority of International treaties on fundamental rights and freedoms over national legislation (Article 90§5 of the Constitution).

Reports *

Between 1989 and 2015, Turkey submitted 15 reports on the application of the 1961 Charter and 6 reports on the Revised Charter.

The [6th report](#), submitted on 19/02/2014, 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 7th 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. 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.

Situation of Turkey with respect to the application of the Charter

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

Children

- ▶ Legislation aiming at increasing the availability of childcare (Law No. 5212).
- ▶ Legislation against domestic violence (Law No. 4320/1998).
- ▶ Under Section 82 of the Regulation on Seafarers of 31 July 2002, young workers under 18 years of age must now undergo regular medical examinations every 12 months.
- ▶ In 1997, compulsory education was extended to eight years.
- ▶ The new Labour Code, which entered into force in 2003, states that employment of children over the age of 14 in light work is permitted on the condition that they have completed compulsory education.

Employment

- ▶ Act No. 4817 regarding work permits for foreigners in Turkey which entered into force on 6 September 2003 provides that a foreign worker having a work permit may change his workplace and professional activity subject to the authorisation by the Ministry of Labour and Social Security.
- ▶ Since the repeal of Article 3/II A of the Act No. 506 on Social Insurance, non-nationals who have a working permit in Turkey are automatically insured for long-term risks, including unemployment. Application is no longer conditioned by the existence of bilateral or multilateral agreements.
- ▶ On 3 January 2005 the fee that employers had to pay for notification of vacancies to the employment services was scrapped.

Health

- ▶ A number of measures to reduce infant and maternal mortality, including access to family doctors, the increase in the number of "Baby Friendly Hospitals" or the "Guest Mother Project", have led to very significant improvements in respect of infant and maternal mortality rates.
- ▶ Amendments to Law No. 4207 on Preventing the Damage of Tobacco Products and their Control, new regulations have started to be implemented as of May 2008 on passive smoking. It is now prohibited to smoke in all open and closed public spaces

Labour rights

- ▶ The constitutional amendments adopted in 2010 grant civil servants the right to collective bargaining. The prohibition of politically motivated strikes and lockouts, solidarity strikes and lockouts, general strikes and lockouts, occupation of work premises, and other forms of action has been removed. And so has the prohibition of membership of more than one trade union at the same time in the same branch of activity.
- ▶ The new law on Occupational Health and Safety (No. 6331) which entered into force on 30 December 2012, imposes an obligation to assess the existing and potential risks and to identify the prevention measures. This law complies with the Occupational Safety and Health Framework Directive 89/391/EEC and ILO Conventions No. 155 and 161.
- ▶ The Circular no. 2010/14 of the Prime Ministry (the Official Gazette no. 27591, 25 May 2010) was put into force with a view to strengthening the socio-economic status of women, ensuring equality of women and men in social life and enhancing employability of women.

Social protection

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).

► Introduction of a system of unemployment benefits (Act reforming certain aspects of the social security system, entered into force on 8 September 1999).

Social services

► Decree Law on the Organization and Functions of the Ministry of Family and Social Policy has set up a general social services system. It constitutes a total shift from previous legislation in the sense that the new regime is more citizen-oriented.

Non-discrimination

► General legislation (Labour Act No. 4857) against discrimination in employment (extension of the concept, possibility of reinstatement and of compensation proportional to the damage suffered etc.).

Non-discrimination (Nationality)

► The monthly poverty benefit (muhtaçlık aylığı) has been available regardless of nationality since 17 January 1997.

► Section 3-II/A of Social Insurance Act No. 506 of 1964 which excluded the affiliation of foreigners in respect of long-term risks has been repealed.

Non-discrimination (Sex)

► A new civil code, ensuring equality between spouses and between parents entered into force on 1 January 2002.

Non-discrimination (Disability)

► On the basis of Decree No. 573/97 persons with disabilities are permitted access to special and higher education.

Cases of non-conformity

Thematic Group 1 "Employment, training and equal opportunities"

► Article 151 - Right to work - Policy of full employment

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

[\(Conclusions 2012\)](#)

► Article 152 – Right to work – freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

1. There is insufficient protection against discrimination in employment, in particular on grounds of age and sexual orientation.

2. The upper limits on the amount of compensation that may be awarded in discrimination cases may preclude damages from making good the loss suffered and from being sufficiently dissuasive;

3. Restrictions on access of nationals of other States Parties to several categories of employment are excessive

4 The Commercial Code authorised during the reference period the captain of a ship to use force to bring sailors back on board, even in cases where there is no threat to the safety of the vessel.

5. Certain provisions of the Martial Law No. 1402/1971 as amended by Act No. 4045/1994 and Act No. 2935/1983 permit restrictions on employment which go beyond those permitted by Article G of the Charter.

[\(Conclusions 2012\)](#)

► Article 1852 – Right to engage in a gainful occupation in the territory of other Parties – simplifying formalities and reducing dues and taxes

There is a dual application procedure for work and residence permits.

[\(Conclusions 2012\)](#)

► *Article 18§3 – Right to engage in a gainful occupation in the territory of other Parties – liberalising regulations*

The rules governing self-employment of foreign workers have not been liberalised and it has not been established that a residence permit of a foreign work who loses his/her job is not automatically revoked

[\(Conclusions 2012\)](#)

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

The employment of all women in certain underground or underwater occupations is prohibited; and women who do not have an indefinite labour contract with at least six months service and who are not employed at a business employing thirty or more workers are not protected by the prohibition of dismissal on grounds of sex.

[\(Conclusions 2012\)](#)

► *Article 24 - Right to protection in case of dismissal*

The maximum amount of compensation in case of unlawful dismissal is inadequate.

[\(Conclusions 2012\)](#)

► *Article 25 - Right of workers to protection of their claims in the event of the insolvency of their employer*

Employees having worked for less than one year for the same employer are excluded from protection against insolvency

[\(Conclusions 2012\)](#)

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

► *Article 3§3 – Right to safe and healthy working conditions - enforcement of safety and health regulations*

Measures to reduce the excessive rate of fatal accidents are inadequate.

[\(Conclusions 2013\)](#)

► *Article 3§4 – Right to safe and healthy working conditions - occupational health services*

It has not been established that there is a strategy to institute access to occupational health services for all workers in all sectors of the economy.

[\(Conclusions 2013\)](#)

► *Article 11§2 – Right to protection of health – advisory and educational facilities*

It has not been established that counselling and screening of the population at large as well as of children and adolescents, through school medical check-ups, are adequate.

[\(Conclusions 2013\)](#)

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

There is no legally established general assistance scheme that would ensure that everyone in need had an enforceable right to social assistance;

Foreign nationals of other States Parties, lawfully residing in Turkey, are entitled to social and medical assistance on an equal footing with Turkish nationals only under condition of reciprocity.

[\(Conclusions 2013\)](#)

► *Article 14§1 – Right to social welfare services – promotion or provision of social welfare services*

It has not been established that there exists an effective and equal access to social services.

[\(Conclusions 2013\)](#)

► *Article 14§2 – Right to social welfare services – public participation in the establishment and maintenance of social services*

It has not been established that the conditions under which non-public providers take part in the provision of welfare services are adequate.

[\(Conclusions 2013\)](#)

► *Article 23 – Right of the elderly to social protection*

It has not been established that there is legislation protecting elderly persons from discrimination on grounds of age.

[\(Conclusions 2013\)](#)

Thematic Group 3 “Labour rights”

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

The legislation allows weekly working time to be up to 66 hours.

(Conclusions 2014)

► *Article 2§6 – Right to just conditions of work– Information on the employment contract*

It is not established that the right to information on the employment contract is fully guaranteed.

(Conclusions 2014)

► *Article 4§2 – Right to a fair remuneration – Increased remuneration for overtime work*

Civil servants are not entitled to an increased time off in lieu of remuneration for overtime hours.

(Conclusions 2014)

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

No period of notice is required for dismissal during a probationary period.

No period of notice is required for dismissal on the grounds of long-term illness, custody or arrest.

(Conclusions 2014)

► *Article 4§5 – 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 or their dependants.

(Conclusions 2014)

► *Article 22 – Right of workers to take part in the determination and improvement of working conditions and working environment*

It has not been established that legal remedies are available to workers for infringements of their right to take part in the determination and improvement of working conditions and the working environment.

(Conclusions 2014)

► *Article 26§1 – Right to dignity in the workplace - Sexual harassment*

It has not been established that employees are given appropriate and effective protection against sexual harassment in the workplace or in relation to work.

(Conclusions 2014)

► *Article 26§2 – Right to dignity in the workplace - Moral harassment*

It has not been established that employees are given appropriate and effective protection against moral harassment in the workplace or in relation to work.

(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*

The prohibition of employment under the age of 15 is not guaranteed 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*

1. The minimum age of admission to employment in occupations regarded as dangerous or unhealthy is below 18 years;

2. The situation in practice does not ensure the effective protection against employment under the age of 18 ifor dangerous or unhealthy activities.

([Conclusions 2011](#))

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

Turkish law and practice do not ensure that children are not deprived of the full benefit of compulsory education.

([Conclusions 2011](#))

► *Article 7§4 – Right of children and young persons to protection – length of working time for young persons under 16*

The working time for children in manifestly excessive.

([Conclusions 2011](#))

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

Night work for workers under 18 years of age is prohibited only in industrial undertakings.

([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 sufficient measures have been adopted to protect children from trafficking and all forms of sexual exploitation.

([Conclusions 2011](#))

► *Article 8§1 – Right of employed women to protection of maternity – maternity leave*

The level of maternity benefits provided to women employed in the private sector is not adequate.

([Conclusions 2011](#))

► *Article 8§2 – Right of employed women to protection of maternity – illegality of dismissal*

Not all employed women are entitled to reinstatement in case of unlawful dismissal during pregnancy or maternity leave.

([Conclusions 2011](#))

► *Article 8§5 – Right of employed women to protection of maternity – prohibition of dangerous, unhealthy or arduous work*

Pregnant women, women who have recently given birth or who are breastfeeding are granted only unpaid leave when they cannot be reassigned to another post because of the dangerousness of their usual work.

([Conclusions 2011](#))

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

1. Measures implemented to address the problem of domestic violence have not been sufficient;
2. It has not been established that there is a general system of family benefits.
([Conclusions 2011](#))

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

1. Corporal punishment in the home is not explicitly prohibited;
2. Prison sentences for minors may be up to 20 years.

([Conclusions 2011](#))

► *Article 17§2 – Right of children to social and economic protection – free primary and secondary education; regular attendance at school*

Children unlawfully present on the territory do not have effective access to education.

([Conclusions 2011](#))

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

1. It has not been established that free services are provided to migrant workers, particularly in obtaining accurate information;
2. It has not been established that measures 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 may become founding members of trade unions.

([Conclusions 2011](#))

► *Article 19§6 – Right of migrant workers and their families to protection and assistance – family reunion*

It has not been established that the requirements imposed on migrant workers, notably with respect to health, are reasonable and likely to facilitate as far as possible the reunion of their family.

([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 grounds for expulsion of a migrant worker are limited to those permitted by Article 19§8 of the Charter;
2. Article 21 of the 'Law on the Movement and Residence of Aliens' (Law 5683) provides that 'the Ministry of Internal Affairs is authorized to expel stateless and non-Turkish citizen gypsies and aliens that are not bound to the Turkish culture'.

([Conclusions 2011](#))

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

The situation in Turkey is not in conformity with Article 19§10 on the same grounds for which it is not in conformity with paragraphs 1, 4c, 6 and 8 of the same Article.

([Conclusions 2011](#))

► *Article 27§2 – Right of workers with family responsibilities to equal opportunity and treatment – parental leave*

The law does not provide fathers with a right to parental leave.

([Conclusions 2011](#))

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

1. Measures taken by public authorities to improve the substandard housing conditions of most Roma in Turkey are inadequate;
2. Insufficient measures were taken by public authorities to improve the substandard housing conditions of most internally displaced persons.

([Conclusions 2011](#))

▶ *Article 31§2 – Right to housing – reduction of homelessness*

Evictions of Roma have occurred without respecting the necessary procedural safeguards to guarantee full respect of every individual's human dignity.

([Conclusions 2011](#))

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

Thematic Group 1 “Employment, training and equal opportunities”

- ▶ Article 1§4 – Conclusions 2012
- ▶ Article 10§§4&5- Conclusions 2012
- ▶ Article 15§§1,2 &3- Conclusions 2012

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

- ▶ Article 11§1 - Conclusions 2013
- ▶ Article 12§1 - Conclusions 2013
- ▶ Article 30 - Conclusions 2013

Thematic Group 3 “Labour rights”

- ▶ Article 4§3 - Conclusions 2014

Thematic Group 4 “Children, families, migrants”

- ▶ Article 7§5 - Conclusions 2011
- ▶ Article 7§6 - Conclusions 2011
- ▶ Article 7§9 - Conclusions 2011
- ▶ Article 19§5 - Conclusions 2011
- ▶ Article 19§7 - Conclusions 2011
- ▶ Article 27§1 - Conclusions 2011
- ▶ Article 27§3 - Conclusions 2011
- ▶ Article 31§3 - Conclusions 2011