

– Ukraine and the European Social Charter –

Ratifications

Ukraine ratified the Revised European Social Charter on 21/12/2006, accepting 74 of the 98 paragraphs of the Charter.

It has not ratified 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	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				

Charter in domestic law

Automatic incorporation into domestic law.

Reports *

Between 2008 and 2015, Ukraine submitted 6 reports on the application of the Charter.

The 6th report, submitted on 16 January 2013, concerns the accepted paragraphs of the Charter relating to Thematic Group 3 "Labour Rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29). Conclusions in respect of these provisions were published in January 2015.

The 7 report, should have been submitted by Ukraine by 31 October 2014 and should concern the accepted paragraphs of the Charter 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 mothers and children to social 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 concerns 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 with respect to these provisions will be adopted in December 2015.

[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 Ukraine with respect to the application of the Charter

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

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

- ▶ As a result of measures taken in 2008-2009, the average size of pensions increased by 64.5% compared to 2007.

Cases of non-conformity

Thematic Group 1 "Employment, training and equal opportunities"-Conclusions 2012

None

[\(Conclusions 2012\)](#)

Thematic Group 2 "Health, social security and social protection"-Conclusions-2013

- ▶ *Article 352 - Right to safe and healthy working conditions - Safety and health regulations*

The coverage of occupational hazards by specific occupational health and safety legislation and regulations is insufficient and the level of protection against asbestos-related occupational hazards is insufficient.

[\(Conclusions 2013\)](#)

- ▶ *Article 353 - Right to safe and healthy working conditions - Enforcement of safety and health regulations*

Measures taken to reduce the excessive number of fatal accidents are insufficient and the labour inspection system is inefficient.

[\(Conclusions 2013\)](#)

- ▶ *Article 354 - Right to safe and healthy working conditions - Occupational health services*

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

[\(Conclusions 2013\)](#)

- ▶ *Article 1151 - Right to protection of health - Removal of the causes of ill-health*

Prevailing high infant and maternal mortality rates.

[\(Conclusions 2013\)](#)

- ▶ *Article 1152 - Right to protection of health - Advisory and educational facilities*

It has not been established that:

- public information and awareness raising is a public health priority;
- prevention through screening is used as a contribution to the health of the population.

[\(Conclusions 2013\)](#)

- ▶ *Article 1451 - Right to benefit from social services - Promotion or provision of social services*

There are no mechanisms for supervising the sufficiency of social welfare services.

[\(Conclusions 2013\)](#)

- ▶ *Article 23 - Right of the elderly to social protection*

The level of the minimum pension is manifestly inadequate.

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).

[\(Conclusions 2013\)](#)

► *Article 30 – Right to be protected against poverty and social exclusion*

It has not been established that there is an effective overall and coordinated approach to combat poverty and social exclusion.

[\(Conclusions 2013\)](#)

Thematic Group 3 “Labour rights”-Conclusions 2014

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

There is no provision in the legislation for a compulsory medical examination for persons about to take up night work. It is not established that the law provides for possibilities of transfer to daytime work, and it is not established that continuous consultation is ensured with workers’ representatives on night work conditions and on measures taken to reconcile the needs of workers with the special nature of night work.
(Conclusions 2014)

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

Notice periods are not reasonable in the following circumstances:

- termination of employment for refusal to agree to a transfer when the undertaking relocates or refusal to accept essential changes in working conditions; dismissal as a result of changes in the organisation of production or labour or a reduction in staff numbers; dismissal for unfitness for medical reasons, lack of qualification or withdrawal of access to top-secret information; or the reinstatement of the previous post holder, beyond seven years of service;
- termination of employment or dismissal on all other grounds, beyond two years of service;
- No notice is required for dismissal during the probationary period.

(Conclusions 2014)

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

Deductions from wages are not reasonable and may deprive workers and their dependents of their very means of subsistence.

(Conclusions 2014)

► *Article 5- Right to Organise*

It has not been established that the fees charged for the registration of the employers’ organisations are reasonable nor that domestic law provides effective sanctions and remedies in case of discrimination and reprisals based on trade union membership and activities. Further it has not been established that domestic law provides for compensation that is adequate and proportionate to the harm suffered by the victim in case of discrimination and reprisals based on trade union membership and activities nor the criteria used to determine representativeness are open to judicial review. In addition the right of nationals of other Parties to the Charter to form trade unions is restricted

(Conclusions 2014)

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

The restrictions on the right to strike for employees working in the emergency and rescue services, at nuclear facilities, in underground undertakings as well as at electric power engineering enterprises do not comply with the conditions established by Article G of the Charter; further the restrictions on the right to strike for employees working in the transport sector do not comply with the conditions established by Article G of the Charter and all civil servants are denied the right to strike.

(Conclusions 2014)

► *Article 2651- 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 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 granted adequate protection nor that appropriate facilities are granted to workers' representatives.
(Conclusions 2014)

Thematic Group 4 "Children, families, migrants"-Conclusions 2011

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

The definition of light work is not sufficiently precise because there is no definition of the types of work which may be considered light or a list of those which are not.

([Conclusions 2011](#))

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

- all children under 18 are not effectively protected against child prostitution;
- all children under 18 are not effectively protected against child pornography;
- simple possession or production of child pornography is not a criminal offence;
- measures taken to address the problem of street children are insufficient and disproportionate in the circumstances.

([Conclusions 2011](#))

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

Measures implemented to address the problem of domestic violence have not been sufficient.

([Conclusions 2011](#))

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

- it has not been established that the right to adequate housing is effectively guaranteed;
- insufficient measures were taken by public authorities to improve the substandard housing conditions of many Roma and Crimean Tatars.

([Conclusions 2011](#))

► *Article 31§2 - Right to housing - Reduction of homelessness*

Right to shelter is not guaranteed to persons unlawfully present in Ukraine, including children, for as long as they are in its jurisdiction.

([Conclusions 2011](#))

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Ukrainian 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 1§1 - Conclusions 2012
- Article 1§2 - Conclusions 2012
- Article 1§3 - Conclusions 2012
- Article 1§4 - Conclusions 2012
- Article 9 - Conclusions 2012
- Article 10§1 - Conclusions 2012
- Article 10§2 - Conclusions 2012

- ▶ Article 10§3 - Conclusions 2012
- ▶ Article 10§4 - Conclusions 2012
- ▶ Article 10§5 - Conclusions 2012
- ▶ Article 15§ - Conclusions 2012
- ▶ Article 15§2 - Conclusions 2012
- ▶ Article 15§3 - Conclusions 2012
- ▶ Article 18§1 - Conclusions 2012
- ▶ Article 18§2 - Conclusions 2012
- ▶ Article 18§3 - Conclusions 2012
- ▶ Article 18§4 - Conclusions 2012
- ▶ Article 20 - Conclusions 2012
- ▶ Article 24 - Conclusions 2012

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

(Report to be submitted by 31 October 2016)

- ▶ Article 11§3 – Conclusions 2013

Thematic Group 3 “Labour rights”

(Report to be examined in 2017)

- ▶ Article 2§5 Conclusions 2014
- ▶ Article 4§3 – Conclusions 2014
- ▶ Article 29– Conclusions 2014

Thematic Group 4 “Children, families, migrants”

(Report to be submitted by 31 October 2014)

- ▶ Article 7§§2, 3, 5 and 7 – Conclusions 2011
- ▶ Article 8§§1, 2 and 5 – Conclusions 2011
- ▶ Article 17§§1 and 2 – Conclusions 2011
- ▶ Article 27§3 – Conclusions 2011