

MIGRANT'S RIGHTS IN THE EUROPEAN SOCIAL CHARTER

22 June 2006

Information document prepared by the Secretariat of the ESC¹

The European Social Charter supplements the European Convention on Human Rights in the field of economic and social rights. It lays down various fundamental rights and freedoms and establishes supervisory mechanism based on a system of collective complaints and national reports, guaranteeing their respect by State Parties. It has recently been amended and the 1996 Revised Social Charter is gradually replacing the initial 1961 treaty. The Charter enshrines a whole body of rights that encompass housing, health, education, employment, social protection, the free movement of individuals and non-discrimination.

In either its original 1961 version or its revised 1996 version, the Charter has been signed by the 46 Council of Europe member states and ratified by 38² of them.

The European Committee of Social Rights (ECSR) ascertains whether countries have honoured the undertakings set out in the Charter. The function of the ECSR is to judge the conformity of national law and practice with the Charter. Its fifteen independent and impartial members are elected by the Council of Europe's Committee of Ministers for a six year term of office, renewable once.

Pursuant to Article E of the revised Charter, enjoyment of the rights set forth in the treaty shall be secured without discrimination based on inter alia race or colour, national extraction or social origin. Apart from this transversal provision, the ECSR has indicated how rights related to migrant workers and their families set forth in the Charter should be implemented. To date, the ECSR registered one complaint relating to the protection of migrants³.

¹ This document is not binding on the ECSR.

² See Signatures and Ratifications of the Social Charter, in www.coe.int

³ Complaint No. 14/2003 - the International Federation of Human Rights Leagues v. France.

PROTECTION OF MIGRANTS

The Charter is a European treaty which lays down standards governing the main human rights in working life as well as social protection and the protection of particular groups, such as migrant workers and their families. The migrant worker has rights prior to, upon entry into and once established, legally resident or working in the territory of another party, and in some cases even once having left. The protection is afforded in two different manners:

Generally: many of the rights guaranteed by the Charter have relevance to migrant workers. In fact, Articles 1 to 17 and 20 to 31 of the Charter, while not specifically referring to them, also apply to foreigners provided they are nationals of Parties lawfully resident or working regularly within the territory of the Party concerned. However, these Articles are to be interpreted in the light of the provisions of Articles 18 and 19.

Specifically: Articles 18 and 19 contain rights governing exclusively the rights of migrant workers and their families to protection and assistance. Article 18 secures the right to engage in a gainful occupation in the territory of other Parties, and Article 19 secures the right of migrant workers and their families to protection and assistance. The purpose of Articles 18 and 19 is to require of Parties certain minimum safeguards for migrant workers and their families.

MIGRATION AND TRENDS

International migration is a global phenomenon. Cross-border movements of workers and dependents involve human beings, most of whom are poor, or in other ways vulnerable (e.g. with regard to command of language). Not only has international migration grown considerably over the last half century, the patterns of migration and the profile of migrants have also changed of which the following can be mentioned:

- Individual migration has made way for group migration;
- Migrants are remaining on a more permanent basis in the receiving states, rather than staying temporarily;
- Education levels of migrants continue to rise;
- Feminisation of migration has occurred;
- Irregular migration is on the increase.

SCOPE OF ARTICLES 18 and 19 OF THE CHARTER

The purpose of Article 19 of the Charter is to ensure specific human rights to migrant workers and their families.

The Appendix to the Charter spells out the scope of the Charter and holds that:

Without prejudice to Article 12, paragraph 4, and Article 13, paragraph 4, the persons covered by Articles 1 to 17 and 20 to 31 include foreigners only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned, subject to the understanding that these articles are to be interpreted in the light of the provisions of Articles 18 and 19.

Articles 18 and 19 of the Charter apply *only* to nationals of the Contracting Parties bound by the Charter. Some confusion has arisen on this question because of the wording of the Appendix to the Charter which states that "persons covered by Articles 1 to 17 include foreigners only in so far as they are nationals of other Contracting Parties", which could be interpreted, *a sensu contrario*, that by not mentioning Articles 18 and 19 these were applicable to all foreigners. However, this interpretation has been rejected by the European Committee of Social Rights, which has considered that it was sufficiently clear from the actual wording of Articles 18 and 19 that these only applied to nationals of Contracting Parties.

The scope covers also refugees, as defined by the Convention relating to the Status of Refugees of 1951 and stateless persons as defined by the Convention on the Status of Stateless Persons, lawfully staying in its territory. Latter groups will be afforded treatment as favourable as possible, in any case not less than favourable than under obligations accepted by the Party under relevant international instruments. Asylum seekers may fall under the scope, if they wish to migrate to the territory of the Parties or are lawfully within the territory.

The Appendix does not mention *worker* but *person*, since jobseekers are considered workers and have the right to the same protection and assistance as workers. The rights under Article 19 are thus applicable to all categories of workers, be they *jobseekers*, *transfrontier workers*, *seasonal workers*, *wage-earners* or *self-employed*⁴.

Nothing in the definition allows for a distinction between permanently lawful or temporarily lawful migrants.

⁴ Conclusions I, p.8.

Although the wording in Article 19 is masculine, the protection equally applies to women.

Finally, illegal immigrants and their children have specific rights where the entitlement of medical assistance is concerned, since legislation or practice which denies entitlement to medical assistance to foreign nationals, within the territory of a State Party, even if they are illegal, is contrary to the Charter. In particular, it is a violation of the Charter if medical assistance to children of illegal immigrants is limited to situations that involve an immediate threat to life and furthermore if children of illegal immigrants are only admitted to the medical assistance scheme after a certain time.⁵

NON-DISCRIMINATION

Migrants are considered more vulnerable to for example racism, discrimination, exclusion, and other difficulties, such as finding suitable accommodation.

Article E of the Revised Charter⁶, contains a non-discrimination clause and reads as follows:

The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.

As regards migrants, States are required to prove absence of discrimination, direct or indirect, in terms of law and practice and should take practical measures to remedy cases of discrimination. In other words, it is not sufficient for a

⁵ With regard to the scope of medical assistance for illegal migrants and their children, particular reference must be made to the decision on the merits in Complaint No. 14/2003 - the International Federation of Human Rights Leagues v. France. In this case, which concerned the entitlement to state medical assistance, the ECSR considered that the scope of protected persons in the Charter had to be interpreted in the light of the social rights which were at stake. Thus, although migrants unlawfully in a State Party were not covered by Articles 1-17, this could not permit treading on rights of fundamental importance to an individual, for instance, connected to the right to life and dignity. The ECSR came to a conclusion that France was not in breach of Article 13 of the Charter, since the impugned legislation did not deprive illegal migrants of all entitlement to medical assistance. However, it did find a breach of Article 17, because children of illegal migrants could be exposed to the risk of not receiving medical treatment: the law in question only envisaged their assistance in situations involving a threat to life and their admission to medical schemes after a certain time. Thus, the extensive interpretation of Article 17 in this case was based on human rights considerations.

⁶ It is understood that this provision must not be interpreted so as to extend the scope *ratione personae* of the Revised Charter which is defined in the Appendix.

government to prove the absence of discrimination merely in terms of the law.⁷ E.g. where a certain requirement, such as a residence requirement, would in law apply equally to nationals as well as foreigners, it might be harder for a foreigner to fulfil the requirement thus leading to a *de facto* discrimination situation.

States should furthermore pursue a positive and continuous course of action providing for more favourable treatment of migrant workers.

RIGHTS OF MIGRANTS

The Charter guarantees rights to migrants in respect of the following issues:

- I Right to engage in gainful employment**
- II Adequate and free services - protection against misleading propaganda**
- III Facilitation of departure, journey and reception**
- IV Promotion of cooperation between social services**
- V Equal treatment regarding pay, membership of trade unions, housing**
- VI Equal treatment concerning taxes**
- VII Equal treatment concerning legal proceedings**
- VIII Right to family reunion**
- IX Safeguards against expulsion**
- X Right to transfer earnings and savings**
- XI Right to language training /mother tongue teaching**
- XII Protection of self-employed migrants**

I Right to engage in gainful employment

States are required, pursuant to Article 18§4, to recognise the right of nationals in the territory of a Party, to leave the country to engage in a gainful occupation in the territory of any other Party⁸. These nationals may be employees, self-employed nationals, those who have lost their employment and also members of their family allowed into the country for the purposes of family reunion.

States are required to simplify existing formalities and reduce or abolish chancery dues and other charges payable by foreign workers or their employers, to facilitate their departure. Under Article 18§3, States are required to liberalise periodically the regulations governing the employment of foreign workers in the

⁷ Conclusions II, p. 68 and Conclusions III, p. 92.

⁸ Limitations and restrictions on this right are provided for in Article 31 of the Charter.

areas of access to the national labour market, eventually gradually lifting the restrictions initially imposed with regard to access to employment.

Loss of employment must not lead to the cancellation of the residence permit, thereby obliging the worker to leave the country as soon as possible. In such cases, States are required to extend the validity of the residence permit to provide sufficient time for a new job to be found.

II Adequate and free services - protection against misleading propaganda

In order for prospective migrants to make a well-founded decision on whether or not to migrate, they have the right to access to reliable information on formalities to be completed as well as on conditions of life and work in the country of destination. Article 19§1 requires States to undertake the following obligations:

Adequate and free services

States are required to provide information and assistance services to migrants wishing to emigrate and to migrants of other Parties who wish to immigrate, including reliable and objective information on necessary formalities and on living and working conditions in the country of destination. In this regard, mention can be made of vocational guidance and training, social security, trade union membership, housing, social services, education and health, or information on websites of e.g. the Ministry of Foreign Affairs.

The services provided should be free of charge and, if possible in a language understandable to migrants.

Protection against misleading propaganda

States are required to take measures against misleading propaganda relating to immigration and emigration. Such measures should prevent the communication and dissemination of misleading information to migrants leaving the country and act against false information targeted at migrants seeking to enter.

To be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia as well as women trafficking. Such measures, which should be aimed at the whole population, are necessary *inter alia* to counter the spread of stereotyped assumptions that migrants are inclined to crime, violence, drug abuse or disease.

States are required to take specific measures to raise awareness and combat misleading propaganda, in particular targeted at female migrants, who are fulfilling jobs which make them more vulnerable, such as jobs as domestic staff, or in the catering industry or home-work. Many recruited for jobs as hostesses or maids, end up in the sex industry.

States are required to take measures to raise awareness amongst law enforcement officials, such as awareness training of officials who are in first contact with migrants, in order to combat xenophobia.

III Facilitation of departure, journey and reception

Under Article 19§2, migrants have the right to the facilitation of their departure and journey to and reception in the receiving State. They have the right to the issuance of travel documents, health care during their journey, reception including assistance with placement and integration in the workplace as well as assistance in helping workers and their families to overcome certain problems, such as short-term accommodation, illness, shortage of money and adequate health measures

The provision applies in particular to migrant and their families who travel either collectively or under arrangements aimed at collective recruitment; it does not apply to migrant and their families making their own travel arrangements.⁹

IV Promotion of co-operation between social services

Article 19§3 requires States to establish contacts and information exchanges between public and/or private social services in emigration and immigration countries. If there is little migratory movement, practical co-operation on a needs basis may suffice. Co-operation is useful for example where the migrant, needs to be contacted for family reasons or where s/he has returned to his or her country but needs to claim unpaid wages or benefits.

V Equal treatment regarding pay, membership of trade unions, housing

remuneration and other employment and working conditions

Migrant workers, lawfully within their territories, have the right under Article 19§4a to equal treatment concerning remuneration and other employment and working conditions, including in-service training, promotion and vocational training. Any length of residence requirement is contrary to the Charter, since a migrant lawfully within the territory is entitled to equal treatment.

membership of trade unions and enjoyment of the benefits of collective bargaining

⁹ Conclusions IV, p. 115.

Under Article 19, paragraph 4b, migrant workers, lawfully within their territories, have the right not to be discriminated in law or practice concerning trade union membership and enjoyment of the benefits of collective bargaining, including access to administrative and managerial posts in trade unions. Any length of residence requirement is contrary to the Charter since a migrant lawfully within the territory is entitled to equal treatment.

accommodation

Migrant workers, lawfully within their territories, have the right under Article 19, paragraph 4c to non-discrimination concerning access to public and private housing. All conditions of access to housing must be the same for nationals as well as for migrant workers. There must be no legal or *de facto* restrictions on home-buying, access to subsidised housing, low cost housing, or housing aids, such as loans or other allowances, bearing in mind that accommodation was a matter of prime importance for the situation of a migrant worker and his/her family. Any length of residence requirement is contrary to the Charter, since a migrant lawfully within the territory is entitled to equal treatment.

VI Equal treatment concerning taxes

Under Article 19, paragraph 5, migrant workers, lawfully within their territories, have the right to be treated equally in law and in practice regarding the payment of employment taxes, dues or contributions. Treatment not less favourable than that of nationals should be accorded in such matters as tax deduction, rate of taxation on income, tax refunds, etc.

VII Equal treatment concerning legal proceedings

Under Article 19, paragraph 7, migrant workers, lawfully within their territories, have the right to equal treatment with nationals in respect of legal proceedings relating to matters referred to in Article 19, or to violation of these rights. Access to legal proceedings includes equal access to courts, assistance of lawyers and entitlement to free legal aid. Those forms of legal assistance available to nationals should be available to migrants. Any length of residence requirement is contrary to the Charter, since a migrant lawfully within the territory is entitled to equal treatment.

VIII Right to family reunion

Migrant workers, permitted to establish themselves in the territory, have the right to be (re)joined by their family as stated in Article 19, paragraph 6 of the Charter. For the purpose of this provision the term 'family of a foreign worker' is understood to mean:

at least the worker's spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker¹⁰.

worker's spouse

Instead of covering the migrant worker's wife, the Revised Charter covers the *spouse* (person's partner in marriage) of the migrant worker, whether a husband or a wife¹¹.

children, dependent, unmarried, minor

Children of the migrant worker are allowed to enter the territory for the purposes of family reunion¹². They should be *dependent*, meaning have no independent existence outside the family group, particularly for economic or health reasons, or because they are pursuing unpaid studies, and are *unmarried*. The children should be *minors* according to the relevant laws of the receiving states¹³.

other family members

The words *at least* indicate that States may decide to extend the notion of the family of the migrant worker beyond those mentioned above, e.g. to disabled children.

Refusal of the right to family reunion on health grounds

A State may not deny entry to its territory for the purpose of family reunion to a family member of a migrant worker for health reasons. Refusal may only be admitted for specific illnesses which are so serious as to endanger public health. These are the diseases requiring quarantine stipulated in the World Health Organisation's International Health Regulations¹⁴, and concern cholera, plague and yellow fever. These are also other serious contagious or infectious diseases such as tuberculosis or syphilis.

¹⁰ Appendix to the Revised Charter.

¹¹ Explanatory report to the Revised Charter.

¹² The children of only the spouse are not covered by the Appendix.

¹³ This change in the age limit from twenty-one years to the age of majority by national laws of receiving states reflects the lowering of the age of majority in all European Countries to eighteen years.

¹⁴ The International Sanitary Regulations adopted in 1951, were amended in 1969 to become the International Health Regulations, in Global Crises – Global Solutions, WHO IHR Revision Project, in www.un.org

Very serious drug addiction or mental illness may justify refusal of family reunion, but only where the authorities establish on a case-by-case basis that the illness or condition constitutes a threat to public order or security.

Conditions

States may require that certain conditions be fulfilled before allowing the family to be reunited with the migrant worker, such as a certain length of residence of migrant workers, the obtaining of sufficient or suitable accommodation, and/or sufficient means of subsistence. It must be stressed that these conditions must not be so restrictive as to prevent any family reunion.

length of residence

States may require that migrant workers reside in the country before their family can join them¹⁵. Such a length of residence requirement is reasonable if it is up to one year.

housing condition

States may require that migrant workers have sufficient or suitable accommodation to house the family or certain family members.

means requirement

States may require that migrant workers have a level of means required to bring in the family or certain family members.

IX Safeguards against expulsion

Under Article 19, paragraph 8, States are prohibited by law to expel migrant workers lawfully residing within their territories unless they endanger national security or offend against public interest or morality.

expulsion

Expulsion (or deportation) is to remove or drive out with force, in this case, the migrant worker from the territory of the State Party, to the territory of that Party of which s/he is a national. It is distinct from the notion of leaving the country oneself in case e.g. the resident permit has expired, or in case of non-extension of an employment contract.

¹⁵ A period of three years is not in conformity with this provision of the Charter.

endanger national security.

As stated above, one of the limitative grounds under which a migrant worker may be expelled, is if s/he endangers national security.

offend against public interest or morality

A migrant worker may be expelled if s/he offends against public interest or morality. However, expulsion in such cases can only be in conformity with the Charter if it constitutes a penalty for a criminal act, imposed by a court, or under judicial authority. Furthermore, it should be based not solely on the existence of a criminal conviction but on all aspects of the non-nationals' behaviour, as well as the circumstances and the length of time of his/her presence in the country concerned.

Risks to public health are not in themselves risks to public order and cannot be the basis for expulsion, unless the person refuses to undergo suitable treatment.

Seeking social assistance is also not against public order and cannot be the basis for expulsion.

right to appeal against expulsion order

Migrants have the right to appeal to a court or other independent body against the expulsion decision, even in cases where national security, public order or morality are at stake.

migrant workers family members

States are prohibited from expelling the migrant worker's family members, spouse, minor or major children, as a consequence of his or her own expulsion.

Being restrictive in its wording Article 19, paragraph 8 must be interpreted in a restrictive manner i.e. it does not allow for the expulsion of the family members, including the minor children, of the migrant worker as a consequence of his/her expulsion. These family members -even in the case they have entered the country on the basis of the right to family reunion- have an independent right to stay.

X	Right to transfer earnings and savings
----------	---

The transfer from the receiving state to the country of origin of earnings and savings (or remittances) is closely connected to such issues as financial support for the family remaining in the country of origin, family reunion and/or length of stay of the migrant worker in the receiving state.

Under Article 19, paragraph 9, migrants have the right, within legal limits, to transfer such parts of their earnings and savings as they may desire. The intended scope of the words *within legal limits*, should not be understood as permitting a State to place any obstacles in the way of transferring a reasonable amount of earnings and savings, having regard to the situation of the migrant worker and his/her family.¹⁶

Amongst permissible restrictions, besides restrictions as to amounts which can be transferred, mention can be made of measures to prevent tax avoidance, such as measures to facilitate a check on the authenticity of declared income¹⁷, or limiting transfer of earnings net of any taxes payable¹⁸.

Restricting the transfers of money to the country of origin (and thus not to third countries) should not restrict the payment of maintenance obligations, payments to dependants and other similar expenses to which a migrant worker is liable.¹⁹

This right should be granted also once the migrant worker has left the territory and returned to his/her country of origin (so-called final departure).

XI Language training / mother tongue teaching

National language

Learning the language of the host country has been considered important for the protection of migrant workers' health and safety at work and for the guarantee of their other employment rights²⁰. Furthermore, it is considered important for them as well as their families for the integration into society at large.

Under Article 19, paragraph 11, States are required to promote and facilitate the teaching of (one of) the national language(s) of the receiving state to migrant workers, their children of school age, and other family members not of school age.

In order not to worsen the already difficult position of migrant workers on the labour market, the services should be free. The teachings should be encouraged within enterprises and voluntary associations, or in public institutions such as universities.

¹⁶ Conclusions I, p. 86.

¹⁷ Conclusions XIII-1, p.212.

¹⁸ Conclusions I, p.87

¹⁹ Conclusions IX-1, p. 111.

²⁰ Explanatory report to the Revised Charter.

Although, the language of the host country is automatically taught to primary and secondary school students throughout the school curriculum, that is not enough to satisfy the obligations laid down by Article 19§11²¹. Therefore, in order for migrant workers' children not to lag behind their classmates, support activities alongside schooling should be introduced.

Mother tongue teaching

Learning the mother tongue is important for children of migrant workers in order for them to maintain their cultural and linguistic heritage *inter alia* for a possible reintegration if and when the migrant worker returns to his/her home country²².

Under Article 19, paragraph 12, mother tongue teaching should be promoted and facilitated, as far as practicable, to the children of the migrant workers. The notion *as far as practicable* entails that the obligation under 19§12 be carried out e.g. where there are a significant number of children warranting lessons in their mother tongue to be organised.

XII Self-employed migrants

As mentioned above, the protection under the Charter and under Article 19 applies to all categories of workers, be they *wage-earners* or *self-employed*²³.

Article 19, paragraph 10 requires of States to extend the protection and assistance to self-employed migrants, mentioning explicitly *insofar as such measures apply*. This means that where the context so requires, the term *worker*, may have to be considered as restricted to employed persons, e.g. in case of the right of a worker to earn his/her living in an occupation freely entered into²⁴.

States must ensure that the protection and assistance provided for in paragraphs 1 to 9 and 11 and 12²⁵ of Article 19 are extended to self-employed migrant workers and their families. There should be no discrimination, in law or in practice between, on the one hand wage-earning migrant workers and self-employed migrants and, on the other, self-employed migrants and self-employed nationals.

MIGRANT WORKERS SPOUSE AND CHILDREN

²¹ Conclusions 2002, p.56.

²² *Idem*

²³ Conclusions I, p.8.

²⁴ *Ibid.*

²⁵ Although Article 19-10 mentions only the first 9 paragraphs, it should be understood that the protection extends to paragraphs 11 and 12.

Article 19 of the Charter has specific relevance for the migrant worker's *spouse* and *children*. The rights afforded to the spouse and children, which have been indicated above under the relevant chapters, are as follows. Article 19, paragraph 6, provides the right to family reunion for the spouse and children. Once these family members have entered the country on the basis of the right to family reunion, they have an independent right to stay. Moreover, family members of a migrant worker (including children) may not be expelled as a consequence of the expulsion of the migrant worker. Furthermore, Article 19, paragraph 11, of the Charter provides that the migrant workers' family should have the possibility of learning the language of the receiving state. For migrant worker's children, this means that they should have the possibility of learning both their mother tongue as well as the language of the receiving state.

APPENDIX I

Please consult our web site to find further information on the monitoring procedure, reporting procedure and collective complaints procedure

www.coe.int

APPENDIX II

Provisions from the Charter and Revised Charter – Extracts

Article 18

The nationals of any one of the Parties have the right to engage in any gainful occupation in the territory of any one of the others on a footing of equality with the nationals of the latter, subject to restrictions based on cogent economic or social reasons.

1. With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake to apply existing regulations in a spirit of liberality;
2. With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;
3. With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake to liberalise, individually or collectively, regulations governing the employment of foreign workers;
4. With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties recognise the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties.

Article 19

Migrant workers who are nationals of a Party and their families have the right to protection and assistance in the territory of any other Party

1. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;

2. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;

3. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;

4. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

- a. remuneration and other employment and working conditions;
- b. membership of trade unions and enjoyment of the benefits of collective bargaining;
- c. accommodation;

5. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;

6. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;

Appendix : For the purpose of applying this provision, the term “family of a foreign worker” is understood to mean at least the worker’s spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker.

7. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;

8. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;

9. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;

10. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply;

11. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;

12. With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to promote and facilitate, as far as practicable, the teaching of the migrant worker’s mother tongue to the children of the migrant worker.

APPENDIX II**Bibliography**

European Social Charter, Collected Texts (4th Edition, CoE Publishing 2005).

Digest of Case Law of the ECSR (March 2005).

Global Crisis – Global Solutions International Health Regulations (WHO, IHR Revision Project), WHO/CDS/CSR/GAR/2002.4.