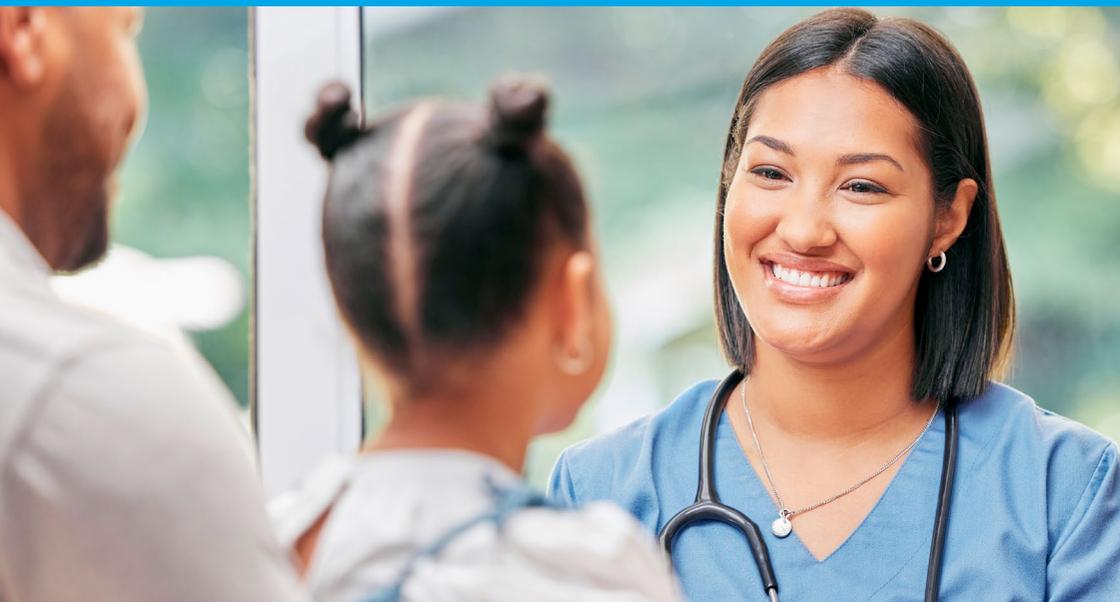


Right to protection of health Article 11 of the Revised European Social Charter

FACTSHEET



European
Social
Charter

Charte
sociale
européenne

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Article 11 – The right to protection of health

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed *inter alia*:

1. to remove as far as possible the causes of ill-health;
2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

The aim of Article 11 is to guarantee all persons the right to benefit from any measures enabling them to enjoy the highest possible standard of health attainable.

■ Respect for physical and psychological integrity is an integral part of the right to protection of health guaranteed by Article 11.¹

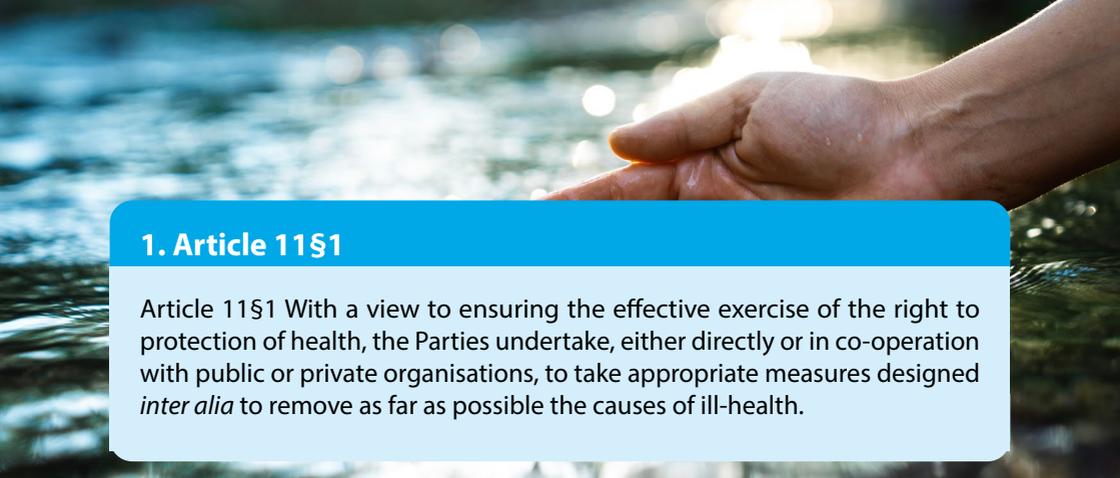
Interrelatedness of Articles 2 and 3 of the European Convention on Human Rights (ECHR) and Article 11 of the Charter

■ The right to protection of health guaranteed by Article 11 of the Charter complements Articles 2 and 3 of the ECHR. The health-related rights of the two treaties are indissociable because “human dignity is the fundamental value and indeed the core of positive European human rights law – whether under the European Social Charter or under the European Convention of Human Rights – and health care is a prerequisite for the preservation of human dignity.”²

Concrete and effective rights

■ The right to protection of health must be protected not merely theoretically, but also in fact. States Parties to the Charter must take both legal and practical measures making available the resources and the operational procedures necessary to give full effect to the rights enshrined therein.³

1. Transgender Europe and ILGA Europe v. the Czech Republic, Complaint No. 117/2015, decision on the merits of 15 May 2018, § 74
2. International Federation of Human Rights Leagues (FIDH) v. France, Collective Complaint No. 14/2003, decision on the merits of 8 September 2004, § 31; Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, §§ 196 and 202
3. Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020



1. Article 11§1

Article 11§1 With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed *inter alia* to remove as far as possible the causes of ill-health.

■ Article 11§1 establishes the right to enjoy the best possible state of health and the right of access to healthcare. According to the definition of health in the Constitution of the World Health Organisation (WHO), which has been accepted by all States Parties to the Charter, health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.⁴ The notion of protection of health also includes an obligation for the State not to interfere directly or indirectly in the exercise of the right to health.

a. Right to the best possible state of health

■ States Parties are required to secure the best possible state of health for their entire population in the light of current knowledge.

■ Health systems must respond appropriately to avoidable health risks, i.e. ones that can be controlled by human action.⁵ The main indicators are life expectancy and the principal causes of death. These indicators must show an improvement and not be too far behind the European average.⁶

■ Infant and maternal mortality are good indicators of how well a particular country's overall health system is operating.⁷ These are avoidable risks and every step should be taken, particularly in highly developed health care systems, to reduce these rates to as close to zero as possible.⁸ High infant and maternal mortality rates and other basic health indicators, may be indicative of weaknesses in the health system.⁹

4. *Transgender Europe and ILGA Europe v. the Czech Republic*, Complaint No. 117/2015, decision on the merits of 15 May 2018, § 71

5. *Conclusions XV-2 (2001), Denmark*

6. *Conclusions 2005, Lithuania*

7. *Conclusions 2003, Romania*

8. *Conclusions 2003, France*

9. *Conclusions 2013, Ukraine*

Public health measures must include special measures to protect the health of mothers, children and older persons.¹⁰

Article 11§1 guarantees the right to a healthy environment.¹¹ This means that health systems must respond appropriately to avoidable health risks, i.e. ones that can be controlled by human action.¹²

The ECSR considers that adequate energy supply is essential for the satisfaction of basic needs related to the enjoyment of the right to protection of health and that stable, consistent and safe access to adequate energy is both a prerequisite for and a key element of the enjoyment of Charter rights such as the right to protection of health.¹³

b. Right of access to healthcare

The right to protection of health includes the right of access to care, which must be available to all without discrimination. This means that healthcare must be effective and affordable for everyone, and that vulnerable groups at particularly high risk, such as homeless persons, persons living in poverty, older persons, persons with disabilities, persons living in institutions, persons detained in prisons, and persons with an irregular migration status must be adequately protected.¹⁴ The ECSR interprets the Charter in the light of other international treaties which are relevant in the field of health, such the Council of Europe's Convention on Human Rights and Biomedicine (Oviedo Convention) 1997. Under Article 3 of the [Oviedo Convention](#), States Parties are required to take appropriate measures with a view to providing, within their jurisdiction, equitable access to health care of appropriate quality.

In the context of the right to adequate health care for older persons, Article 23 of the Charter requires that health care programmes and services specifically aimed at older persons must exist.

10. Conclusions I (1969), Statement of Interpretation on Article 11
11. Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, §§ 194, 195 and 202
12. Conclusions XV-2 (2001), Denmark
13. Defence for Children International (DCI), European Federation of National Organisations working with the Homeless (FEANTSA), Magistrats Européens pour la Démocratie et les Libertés (MEDEL), Confederación Sindical de Comisiones Obreras (CCOO) and International Movement ATD Fourth World v. Spain, Complaint No. 206/2022, decision on the merits of 11 September 2024, §144 and §205
14. International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, § 218



■ Decisions around the allocation of medical resources should not be made solely on the basis of age and triage protocols should be developed and followed to ensure that such decisions are based on medical needs and the best scientific evidence available.

■ Consistent with the World Health Organisation (WHO) Comprehensive Mental Health Action Plan 2013-2030, and other relevant standards, the Committee considers that a human rights-compliant approach to mental health requires at a minimum the following elements:¹⁵

- (a) developing human rights-compliant mental health governance through, *inter alia*, mental health legislation and strategies that are in line with the Convention on the Rights of Persons with Disabilities and other relevant instruments, best practice and evidence;¹⁶
- (b) providing mental health in primary care community-based settings, including by replacing long-stay psychiatric hospitals with community-based non-specialised health settings;¹⁷ and
- (c) implementing strategies for promotion and prevention in mental health, including campaigns to reduce stigmatisation, discrimination and human rights violations.¹⁸

■ While the issue of deinstitutionalisation of persons with disabilities is ordinarily examined under Article 15 (right of disabled persons to independence, social integration and participation in the life of the community), where a State Party has not ratified that provision, the availability of community-based mental health services and the measures taken by States to ensure the transition to community-based mental health services are examined under Article 11.

■ Language should not be a barrier to accessing adequate medical services.¹⁹

15. [Conclusions 2021, Austria](#)

16. [Conclusions 2021, Austria](#)

17. [Conclusions 2021, Austria](#)

18. [Conclusions 2021, Austria](#)

19. [European Roma Rights Centre \(ERRC\) v. Bulgaria, Complaint No. 151/2017, decision on the merits of 5 December 2018, § 80](#)



Conditions for access to healthcare:

■ The cost of healthcare must be borne by the community as a whole²⁰ and must not place an excessively heavy burden on individuals.

■ The main criterion for judging the success of health system reforms is effective access to health care for all, without discrimination, as a basic human right.²¹

■ Healthcare access procedures must not result in undue treatment delays. Access to treatment must be based on transparent criteria, agreed at the national level, taking into account the risk of deterioration, in clinical terms and in terms of quality of life.²²

■ Numbers of healthcare professionals and equipment must be sufficient. Accordingly, all possible measures must be taken to ensure the deployment of a sufficient number of health professionals and safe and healthy working conditions (see also Article 3 of the Charter). A very low density of hospital beds, combined with waiting lists, could be an obstacle to access to health care by the largest possible number of people.²³ Residential conditions in hospitals, including psychiatric institutions, must be satisfactory and compatible with human dignity.²⁴

■ The authorities have a responsibility to support persons whose degree of exclusion, past experience and social status places them in a situation where they may not have the means to seek the available remedies so that they can overcome these barriers and effectively assert their rights.²⁵

20. Conclusions I (1969), Statement of Interpretation on Article 11; Addendum to Conclusions XV-2 (2001), Cyprus

21. Conclusions 2005, Statement of Interpretation on Article 11, in accordance with Recommendation 1626 (2003) of the Parliamentary Assembly– “Reform of health care systems in Europe: reconciling equity, quality and efficiency”

22. Conclusions XV-2 (2001), United Kingdom; Conclusions XX-2 (2013), Poland

23. Conclusions XV-2 (2001), Denmark

24. Conclusions 2005, Statement of Interpretation on Article 11; Conclusions 2005, Romania

25. European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 151/2017, decision on the merits of 5 December 2018, § 84

Free and informed consent

■ Guaranteeing free and informed consent is fundamental to the enjoyment of the right to health and integral to autonomy and human dignity and the obligation to protect the right to health.²⁶

■ Noting in particular the Council of Europe's Convention on Human Rights and Biomedicine (Oviedo Convention) 1997, and the well-established position of other human rights bodies, the ECSR considers that any medical treatment without free informed consent (subject to strict exceptions) cannot be compatible with physical integrity and necessarily with the right to protection of health.²⁷

Sexual and reproductive health

■ States Parties must provide appropriate and timely health care on a non-discriminatory basis, including services relating to sexual and reproductive health. As a result, a health care system which does not provide for the specific health needs of women will not be in conformity with Article 11, or with Article E of the Charter taken together with Article 11.²⁸

■ As to abortion, once States introduce statutory provisions allowing abortion in some situations, they are obliged to organise their health system in such a way as to ensure that the effective exercise of freedom of conscience by health professionals in a professional context does not prevent patients from obtaining access to services to which they are legally entitled under the applicable legislation.²⁹

Personal scope

■ The restriction of personal scope provided for in paragraph 1 of the Appendix should not be read in such a way as to deprive foreigners in an irregular situation of the protection of the most basic rights enshrined in the Charter or to impair their fundamental rights such as the right to life or to physical integrity or the right to human dignity.³⁰

26. Transgender Europe and ILGA Europe v. the Czech Republic, Complaint No. 117/2015, decision on the merits of 15 May 2018, § 82

27. Transgender Europe and ILGA Europe v. the Czech Republic, Complaint No. 117/2015, decision on the merits of 15 May 2018, § 82.

28. International Planned Parenthood Federation - European Network (IPPF EN) v. Italy, Complaint No. 87/2012, decision on the merits of 10 September 2013, § 66; see also Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No. 91/2013, decision on admissibility and the merits of 12 October 2015, §§ 162 and 190

29. International Planned Parenthood Federation - European Network (IPPF EN) v. Italy, Complaint No. 87/2012, decision on the merits of 10 September 2013, § 69; see also Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No. 91/2013, decision on admissibility and the merits of 12 October 2015, §§ 166 and 167

30. Defence for Children International (DCI) v. Belgium, Collective Complaint No. 69/2011, decision on the merits of 23 October 2012, § 28

■ Providing migrant children with shelter and appropriate accommodation is a minimum prerequisite for attempting to remove the causes of ill-health among these minors (including epidemic, endemic or other diseases).³¹ The Committee has stressed the importance of effective medical screening and psychosocial support for migrant and asylum-seeking children upon arrival.³²

2. Article 11§2

Article 11§2 With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed *inter alia* to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health

c. Public education and awareness raising

■ Public health policy must seek to promote public health in accordance with WHO objectives. National legislation must provide for public information, education and participation.

■ States Parties must show that they implement an education policy in good health practices both for the general public and for population groups affected by specific health problems.

■ This should include, where appropriate, environmental health education.³³

■ Measures should be introduced which seek to prevent activities that are damaging to health, such as smoking, excessive alcohol consumption and the use of drugs, and encourage the development of a sense of individual responsibility in respect of matters such as healthy diet, sexual and reproductive health, and the environment.³⁴

31. International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, § 221

32. International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, § 227

33. Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, §§ 216 and 219

34. International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia, Complaint No. 45/2007, decision on the merits of 30 March 2009, § 43

■ In the event of a pandemic, States Parties must take all the necessary measures to raise public awareness of the risks posed by the disease in question.³⁵

■ Health education must be provided throughout school life and form part of school curricula³⁶; it must cover smoking and alcohol abuse, sexual and reproductive education, in particular with regard to sexually transmitted diseases and AIDS, road safety and healthy eating habits.

d. Counselling and screening

■ There should be screening, preferably systematic, for the diseases which constitute the principal causes of death³⁷.

■ Free and regular counselling and screening should be provided to pregnant women and to children throughout the country.³⁸

■ Free medical checkups should be conducted throughout children's schooling.

3. Article 11§3

Article 11§3 With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed *inter alia* to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

e. Precautionary principle

■ As to preventive measures, States Parties must apply the precautionary principle: when a preliminary scientific evaluation indicates that there are reasonable grounds for concern regarding potentially dangerous effects on human health, the State must take precautionary measures consistent with the high level of protection established by Article 11 so as to prevent those effects.³⁹

35. Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020

36. Conclusions 2007, Albania

37. Conclusions 2005, Republic of Moldova

38. Conclusions 2005, Republic of Moldova

39. Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020; see also International Federation of Human Rights Leagues (FIDH) v. Greece, Complaint No. 72/2011, decision on the merits of 23 January 2013, §§ 150-154

■ These measures may include testing and tracing, physical distancing and self-isolation, the provision of adequate masks and disinfectant, and the imposition of quarantine and ‘lockdown’ arrangements.⁴⁰

■ Measures must be taken as promptly as possible, making the maximum use of available financial, technical and human resources, and by all appropriate means.

f. Healthy environment

■ Under the Charter, overcoming pollution is an objective that is to be achieved gradually. Nevertheless, States Parties must strive to attain this objective within a reasonable time, by showing measurable progress and making best possible use of the resources at their disposal.⁴¹

■ Guaranteeing a healthy environment requires States Parties to:

- ▶ Devise an appropriate legislative and regulatory framework relating to air pollution, set up appropriate, effective and efficient monitoring mechanisms and assess health risks through epidemiological monitoring⁴²;
- ▶ Take prevention and protection measures with regard to water, particularly with a view to securing availability of drinking water;
- ▶ Set dose limits in keeping with the relevant legal framework in relation to nuclear risks for populations living near a nuclear power plant;
- ▶ Prohibit the use, production and sale of asbestos and products containing it;
- ▶ Establish legally enforceable national food hygiene standards based on the relevant scientific data and set up appropriate monitoring mechanisms throughout the food chain;
- ▶ Adopt noise pollution prevention and protection measures;
- ▶ Ensure that public health standards relating to housing are applied if they have not accepted Article 31 of the Charter.

g. Smoking, alcohol and drugs

■ Anti-smoking measures are particularly important to ensure compliance with Article 11 given that smoking is a major avoidable cause of death in developed countries.

40. Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020

41. Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, § 204

42. Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, § 203



■ To be effective, prevention policies must restrict the supply of tobacco through controls on production, distribution, advertising and prices.⁴³ It is particularly important to ban the sale of tobacco to minors,⁴⁴ to ban smoking in public places including public transport⁴⁵ and to ban tobacco advertising on billboards and in the written press.⁴⁶

■ The Committee assesses the effectiveness of such policies on the basis of statistics on trends in tobacco consumption.⁴⁷

■ This approach to prevention also applies, *mutatis mutandis*, to measures to combat alcoholism and drug addiction.⁴⁸

h. Vaccination and epidemiological monitoring

■ States Parties must operate widely accessible immunisation programmes. They must maintain high coverage rates not only to reduce the incidence of these diseases, but also to neutralise the reservoir of virus.

■ States must show their ability to react when faced with infectious diseases.

■ Vaccine research should be promoted, adequately funded and efficiently co-ordinated between public and private bodies.⁴⁹

43. Conclusions XVII-2 (2005), Malta

44. Conclusions XV-2 (2001), Portugal

45. Conclusions 2013, Andorra

46. Conclusions XV-2 (2001), Greece

47. Conclusions XVII-2 (2005), Malta

48. Conclusions XVII-2 (2005), Malta

49. Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020

i. Accidents

States Parties must take measures to prevent accidents. The main categories of accident covered are road traffic accidents, domestic accidents, accidents at school, accidents during leisure time (including those caused by animals)⁵⁰. Accidents at work are considered under Article 3 (The right to safe and healthy working conditions).

4. Other health-related Charter provisions

Other Charter provisions may also be relevant to the protection of health. This is the case with Article 3 (The right to safe and healthy working conditions), Article 7 (The right of children and young persons to protection), Article 8 (The right of employed women to protection of maternity), Article 12 (The right to social security), Article 13 (The right to social and medical assistance), Article 15 (The right of persons with disabilities to independence, social integration and participation in the life of the community), Article 17 (The right of children and young persons to social, legal and economic protection), Article 19 (The right of migrant workers and their families to protection and assistance), Article 23 (The right of elderly persons to social protection), Article 30 (The right to protection against poverty and social exclusion) and Article 31 (The right to housing).

→ Relevant collective complaints

- ✦ *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, Complaint No. 30/2005, decision on the merits of 6 December 2006
- ✦ *International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia*, Complaint No. 45/2007, decision on the merits of 30 March 2009
- ✦ *European Roma Rights Centre (ERRC) v. Bulgaria*, Complaint No. 46/2007, decision on the merits of 3 December 2008
- ✦ *Médecins du Monde - International v. France*, Complaint No. 67/2011, decision on the merits of 11 September 2012
- ✦ *Defence for Children International (DCI) v. Belgium*, Collective Complaint No. 69/2011, decision on the merits of 23 October 2012

50. Conclusions 2005, Republic of Moldova

- 🔗 International Federation for Human Rights (FIDH) v. Greece, Complaint No. 72/2011, decision on the merits of 23 January 2013
- 🔗 International Planned Parenthood Federation - European Network (IPPF EN) v. Italy, Complaint No. 87/2012, decision on the merits of 10 September 2013
- 🔗 *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 91/2013, decision on the admissibility and merits of 12 October 2015
- 🔗 European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No. 114/2015, decision on the merits of 24 January 2018
- 🔗 Transgender Europe and ILGA Europe v. the Czech Republic, Complaint No. 117/2015, decision on the merits of 15 May 2018
- 🔗 European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 151/2017, decision on the merits of 5 December 2018
- 🔗 European Disability Forum (EDF) and Inclusion Europe v. France, Complaint No. 168/2018, decision on the merits of 19 October 2022
- 🔗 International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021
- 🔗 Defence for Children International (DCI), European Federation of National Organisations working with the Homeless (FEANTSA), Magistrats Européens pour la Démocratie et les Libertés (MEDEL), Confederación Sindical de Comisiones Obreras (CCOO) and International Movement ATD Fourth World v. Spain, Complaint No. 206/2022, decision on the merits of 11 September 2024

➔ Other relevant documents

- 🔗 ECSR, Statement of Interpretation on Article 11: Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020
- 🔗 ECSR, last Conclusions on Article 11: Conclusions (XXII-2) 2021
- 🔗 ECSR, Social rights and the cost-of-living crisis, A review of States Parties' ad hoc reports, 19 March 2025

The European Social Charter, adopted in 1961 and revised in 1996, is the counterpart of the European Convention on Human Rights in the field of economic and social rights. It guarantees a broad range of human rights related to employment, housing, health, education, social protection and welfare.

The Charter is seen as the Social Constitution of Europe and represents an essential component of the continent's human rights architecture.

The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

www.coe.int



European
Social
Charter

Charte
sociale
européenne

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE