

## The impact of the Charter in the member States

### A few examples:

As a result of the Charter and its supervisory machinery, States have made numerous changes in their legislation and their practice to bring national situations into line with the treaty. The following cases are typical:

**In Austria:** In 2003 new legislation was adopted which enhances measures to protect children from pornography (Conclusions XVII-2 (2005), Article 7, paragraph 10, of the 1961 Charter).

**In Denmark:** The Government introduced a new public health programme for the years 2002-10 which aims to increase life expectancy, improve quality of life and reduce health inequalities (Conclusions XVII-2 (2005), Article 11, paragraph 1, of the 1961 Charter).

**In Spain:** The principle of equal pay was enhanced by Act No. 33/2002, under which Article 28 of the Workers' Statute now covers remuneration in all its aspects (Conclusions XVII-2, Article 1 of the Additional Protocol).

**In Greece:** Act No. 3103/2003 has removed the quota on the number of women allowed to enter the police academy (Conclusions XVII-2 (2005), Article 1 of the Additional Protocol).

**In Lithuania:** Under Act No. IX-1672 of 1 July 2003, standard working time may not exceed 12 hours a day and 40 hours a week (Conclusions 2005, Article 2, paragraph 1, of the revised Charter).

**In the Netherlands:** Since the entry into force of the Work and Family Act on 1 December 2001, women have been formally entitled to maternity leave for six weeks before and ten weeks after the birth of their child (Conclusions XVII-2 (2005), Article 8, paragraph 1, of the 1961 Charter).

### European Social Charter Department

**Council of Europe**  
F-67075 Strasbourg Cedex  
Tel. +33 (0)3 88 41 32 58  
Fax. +33 (0)3 88 41 37 00  
social.charter@coe.int

### For more information on the Charter:

The Charter website contains:

- national reports, conclusions and decisions of the European Committee of Social Rights, and a bibliography on the Charter;
- a database which makes it easy to consult the Committee's case law on line;
- the Digest which presents the case law of the European Committee of Social Rights;
- country factsheets which illustrate the application of the Charter and current developments in its State Parties.

[www.coe.int/socialcharter](http://www.coe.int/socialcharter)

**List of States which have ratified the Charter of 1961 or its revised version of 1996:** Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine, United Kingdom.

The Council of Europe is an international organisation, founded in 1949 by 10 countries and based in Strasbourg (France). It currently has 47 member States, with a total population of some 800 million.

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### Council of Europe

Avenue de l'Europe  
F-67075 Strasbourg Cedex  
Tel. +33 (0)3 88 41 20 00  
Fax +33 (0)3 88 41 27 81

[www.coe.int](http://www.coe.int)

1961 - 2011  
**50<sup>th</sup>**

## Anniversary of the European Social Charter

The **European Social Charter** is a Council of Europe treaty setting out human rights for everyday life which must be respected by the states that have accepted it. In 2011 it is celebrating its 50th anniversary. In the half century since its adoption by the Council of Europe in 1961 and its revision in 1996, it has been helping to improve the day-to-day lives of millions of people by safeguarding and promoting their fundamental social and economic rights.

The Charter, which has been ratified by 43\* countries, is a counterpart to the European Convention on Human Rights (1950) – the Council's first ever treaty, which protects civil and political rights.

*Human rights  
in everyday life*

\*Situation June 2011

*"All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families" (Article 4)*



## The European Committee of Social Rights

The European Committee of Social Rights ascertains whether countries have honoured the undertakings set out in the Charter. Its fifteen independent and impartial members are elected by the Council of Europe's Committee of Ministers for a six-year period, renewable once. The Committee determines whether or not national law and practice in the States Parties comply with the Charter (Article 24 of the Charter, as amended by the Turin Protocol of 1991).

## The reporting system, an ongoing review procedure

States Parties regularly submit a report on the implementation of the European Social Charter in law and in practice. These reports are examined by the European Committee of Social Rights, which decides whether the national situations they describe comply with the Charter. These decisions, called "conclusions", are published every year. When the Committee finds that the situation in a country does not comply with the Charter and the country in question fails to take any action to remedy the situation, the Committee of Ministers of the Council of Europe issues a recommendation to the government concerned, calling on it to alter the relevant legislation and/or practice. The groundwork for Committee of Ministers' recommendations is carried out by the Governmental Committee, made up of representatives of the States Parties and observers from the European social partners.

## A unique system of collective complaints

The 1995 Additional Protocol, which came into force in 1998, established a new right which allows approved NGOs, employer organisations and trade unions to lodge collective complaints against States. The European Committee of Social Rights adopts a decision on the merits of such complaints. It then forwards it to the parties and the Committee of Ministers in a report, which is made public no more than four months later. The Committee of Ministers adopts a resolution and may recommend the state concerned to take specific steps to bring the situation into compliance with the Charter. For example, in 1998, the International Commission of Jurists lodged a complaint against Portugal denouncing the employment of children under the age of 15. The International Federation of Human Rights used the same procedure against Greece in 2000 to highlight cases of forced labour. Fourteen member States are bound by the Protocol: Belgium, Bulgaria, Cyprus, Croatia, Finland, France, Greece, Ireland, Italy, Norway, the Netherlands, Portugal, Slovenia and Sweden.

The full list of collective complaints can be consulted via: [www.coe.int/socialcharter](http://www.coe.int/socialcharter)

## The rights guaranteed by the Charter

### Housing

- access to adequate and affordable housing, with adequate procedural safeguards, in particular for the most vulnerable categories;
- procedures to limit forced eviction and legal safeguards;
- in case of evictions, respect of the dignity of people concerned;
- provision of emergency shelters, sufficient in quality and quantity, for homeless people and for children (including children in an irregular situation);
- equal access for non-nationals to social housing and housing benefits;
- social housing construction and/or housing benefits for low-income persons and disadvantaged categories;
- reduction of waiting-times before being allocated social housing and possibility of appeal in case of excessive waiting-times.

### Health

- accessible, effective health care facilities for the entire population;
- policy for preventing illness with, in particular, the guarantee of a healthy environment;
- elimination of occupational hazards so as to ensure that health and safety at work are provided for by law and guaranteed in practice;
- protection of maternity.

### Employment

- freedom to form trade unions and employers' organisations to defend economic and social interests; individual freedom to decide whether or not to join them;
- promotion of joint consultation, collective bargaining, conciliation and voluntary arbitration;
- the right to strike;
- prohibition of forced labour;
- prohibition of the employment of children under the age of 15;
- special working conditions between 15 and 18 years of age;
- the right to earn one's living in an occupation freely entered upon;
- an economic and social policy designed to ensure full employment;
- fair working conditions as regards pay and working hours;
- protection from sexual and psychological harassment;
- protection in case of dismissal;
- access to work for persons with disabilities.

### Movement of persons

- the right to family reunion;
- the right of nationals to leave the country;
- expulsion permitted only in narrowly restricted circumstances and procedural safeguards relating to expulsion;
- simplification of immigration formalities.

*"Everyone has the right to protection against poverty and social exclusion" (Article 30)*

### Legal and social protection

- legal status of the child;
- treatment of young offenders;
- protection from ill-treatment and abuse;
- prohibition of any form of exploitation (sexual or other);
- legal protection of the family (equality of spouses, equal treatment of children, protection of children in case the family breaks up);
- the right to social security, social welfare and social services;
- the right to be protected against poverty and social exclusion;
- childcare;
- rights of elderly persons: adequate resources, services and facilities, housing, health, respect for private life in institutions.

### Education

- free primary and secondary education;
- free and effective vocational guidance services;
- access to initial training (general and vocational secondary education), university and non-university higher education, vocational training, including continuing training;
- access to education and vocational training for persons with disabilities;
- integration of children with disabilities into mainstream schooling.

### Non-discrimination

- The rights of the Charter must be guaranteed to everybody concerned, including foreigners lawfully resident and/or working, without discrimination on any ground such as race, colour, sex, age, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.

*"Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable" (Article 11)*

### Articles of the Charter relating to children

Rights of the family (Article 16) - Legal status of children - Criminal responsibility and criminal law with regard to children (Article 17) - Protection of children's health (Article 11) - Special protection of children, protection against violence, ill-treatment and exploitation, special protection of certain vulnerable groups (Article 17) - Right to education (Articles 9, 10, 17) - Prohibition of child labour and special conditions for the employment of persons between the ages of 15 and 18 (Article 7) - Rights of migrants' children (Article 19).

## The Social Charter's protocols

Between the adoption of the initial text in 1961 and the revised version of 1996, three protocols were added to the European Social Charter:

- the Additional Protocol of 1988 extending the social and economic rights of the 1961 Charter;
- the Protocol of Amendment of 1991 reforming the Charter's supervisory machinery (the "Turin Protocol");
- the Additional Protocol of 1995 providing for a system of collective complaints.

<http://conventions.coe.int/>

*"All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex" (Article 20)*

## A flexible Charter

The States that have ratified the Charter are not required to accept all its provisions. For more information on the articles accepted by each country and to find out about signatures and ratifications of the Charter and its Protocols by the member States, please consult:

[www.coe.int/socialcharter](http://www.coe.int/socialcharter)

## The future of the European Social Charter

Every day globalisation presents social protection in Europe with new challenges. Long-established social rights are under threat and representative organisations no longer hesitate to defend people's rights to housing, employment and health through legal action. The European Social Charter must continue to evolve. Since its provisions complement the civil and political rights enshrined in the European Convention on Human Rights, why should they not be merged into a single body of fundamental rights? Should the Social Charter be more binding? Should the possibility for States to enter reservations be reduced to enable collective complaints to be lodged on all articles of the Charter? Should the European Union be encouraged to subscribe to the Charter so that the protection of social rights can be more closely tied up with Community law? The Council of Europe is currently investigating all these questions but it still has two clear aims: firstly, to give globalisation itself a social dimension and, secondly, for the Charter to gain ever-increasing recognition as the benchmark for a full-blown European social system.