



European
Social
Charter

Charte
sociale
européenne



EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX

March 2023

European Social Charter

European Committee of Social Rights

Conclusions XXII-3 (2022)

General Introduction

This text may be subject to editorial revision.

GENERAL INTRODUCTION

1. The European Committee of Social Rights¹, established by Article 25 of the European Social Charter, composed of:

Ms Eliane CHEMLA (French)
Vice-President
Honorary State Councillor
State Council, Paris (France)

Ms Aoife NOLAN (Irish)
Vice-President
Professor of International Human Rights Law, School of Law
Co-Director of the Human Rights Law Centre
University of Nottingham (United Kingdom)

Mr József HAJDÚ (Hungarian)
Professor of Labour Law and Social Security, Faculty of Law
University of Szeged (Hungary)

Ms Kristine DUPATE (Latvian)
Associate Professor, International and European Law, Faculty of Law
University of Latvia, Riga (Latvia)

Ms Karin Møhl LARSEN (Danish)
Adviser on International Social Security issues and European Union Law
Copenhagen (Denmark)

Mr Yusuf BALCI (Turkish)
Professor of Labour Economics and Social Policy, Faculty of Business
Istanbul Commerce University (Turkey)

Ms Tatiana PUIU (Moldovan)
Attorney at Law
Human Rights specialist (Republic of Moldova)

Mr Paul RIETJENS (Belgian)
Former Director general of Legal Affairs of the Federal Public Service of Foreign Affairs, Foreign
Trade and Development Cooperation, Brussels (Belgium)

Mr George N. THEODOSIS (Greek)
Assistant Professor of Labour and Employment Law
Director of the Laboratory of Comparative and European Social Law
Democritus University of Thrace, Komotini (Greece)

Mr Mario VINKOVIĆ (Croatian)
Professor of Labour and Social Security Law, Faculty of Law
University of Osijek (Croatia)

¹ A new Bureau will be elected at the end of January.

Ms Miriam KULLMANN (German)
Associate Professor,
Social Law Division, Radboud University, Nijmegen, The Netherlands

Ms Carmen SALCEDO BELTRÁN (Spanish)
Ph. Doctor, researcher
Civil servant Professor Labour law and social security University of Valencia (Spain)

Ms Monika ŠIMŮNKOVÁ (Czech)
Member of the Government Council for Human Rights
Member of the Committee for Children's Rights
Former Commissioner for Human Rights

assisted by Mr Jan MALINOWSKI, Executive Secretary,

between March 2022 and January 2023 examined the reports on the application of the 1961 European Social Charter.

2. The role of the European Committee of Social Rights is to rule on the conformity of the situations in States Parties with the European Social Charter (revised), the 1988 Additional Protocol and the 1961 European Social Charter.

3. Following the changes to the reporting system adopted by the Committee of Ministers at the 1996th meeting of the Ministers' Deputies on 2-3 April 2014 the system comprises two types of reports. Firstly, the reports on the fourth thematic group of Charter provisions, and secondly simplified reports every two years on follow-up to collective complaints for States Parties bound by the collective complaints procedure.

4. Thus, the conclusions adopted by the Committee in January 2023 concern the accepted provisions of the following articles of the 1961 European Social Charter ("the Charter") and the 1988 Additional Protocol belonging to the thematic group "Labour Rights":

- the right to just conditions of work (Article 2),
- the right to a fair remuneration (Article 4),
- the right to organise (Article 5),
- the right to bargain collectively (Article 6),
- the right to information and consultation (Article 2 of the Additional Protocol),
- the right to take part in the determination and improvement of the working conditions and working environment (Article 3 of the Additional Protocol).

5. The Committee recalls that States Parties were asked to reply to [the specific targeted questions](#) posed under various provisions. The Committee therefore focused on the information relating to those questions. In addition, it also assessed the replies to all findings of non-conformity, deferrals or conclusions of conformity pending receipt of information requested in its previous conclusions (Conclusions XXI-3 (2018) or Conclusions XX-3 (2014)) depending on the country concerned). The Committee recalls that no targeted questions were asked under certain provisions. Where the previous conclusion (Conclusions XXI-3 (2018) or Conclusions XX-3 (2014)) was a finding of conformity, there was no examination of the situation in 2022.

6. The following States Parties submitted a report: Germany, Luxembourg, the Netherlands Curaçao, the Netherlands Caribbean part, Poland, Spain and the United Kingdom.

7. Denmark and Iceland submitted their reports too late for examination. However, the Committee decided to examine Denmark's report relating to Articles 5 and 6§2 due to the fact that a meeting had been held in March 2022 with the Danish authorities on the topic of the Danish International Shipping Register.

8. No report was submitted by the Netherlands Sint Maarten. The report submitted by the Netherlands Aruba concerned provisions not under examination during the reporting cycle and hence was not examined.

9. The Committee invites Denmark, Iceland, the Netherlands Aruba and the Netherlands Sint Maarten to scrupulously observe the reporting deadlines and provisions to be reported on so as not to undermine the impact of the Charter's supervisory mechanism.

10. As noted above, States Parties which have accepted the collective complaints procedure are required to submit a simplified report every two years. In order to avoid excessive fluctuations in the workload of the Committee from year to year, the 16 States Parties which have accepted the complaints procedure were divided into two groups as follows:

- Group A, made up of eight States: Belgium, Bulgaria, Finland, France, Greece, Ireland, Italy and Portugal;
- Group B, made up of eight States: Croatia, Cyprus, the Czech Republic, the Netherlands, Norway, Slovenia, Spain and Sweden.

11. On this basis, the States Parties belonging to Group B² were invited to submit reports on follow-up to collective complaints by 31 December 2021. The findings adopted by the Committee in this respect thus concern the following States Parties: Croatia, Cyprus, the Czech Republic, the Netherlands, Norway, Slovenia, Spain and Sweden. The findings will be made public in March 2023.

12. In addition to the state reports, the Committee had at its disposal comments on the reports submitted by different trade unions and national human rights institutions (see introduction to the individual country chapters). The Committee wishes to acknowledge the importance of these various comments, which were often crucial in gaining a proper understanding of the national situations concerned.

13. The Committee's conclusions as outlined above are published in chapters by State. The conclusions are also available on the website of the European Social Charter and in the Hudoc database that is also available on this site. A summary table of the Committee's Conclusions 2022 as well as the state of signature and ratification of the Charter and the 1961 Charter appear below.

Election of members to the Committee

14. The composition of the Committee is governed by Article 25 pursuant to which its 15 members are elected by the Committee of Ministers for mandates of six years, renewable once.

15. It is recalled that pursuant to Article 3 of the Turin Protocol members shall be elected by the Parliamentary Assembly. However, this provision alone is still not being applied in practice (pending the formal entry into force of the Protocol).

² With the exception of Spain having accepted the complaints procedure only in 2021)

16. Members shall be “independent experts of the highest integrity and of recognised competence in international social questions”. Election takes place every second year with a third of the seats (5) being up for election.

17. At the 1450th meeting of the Ministers’ Deputies on 30 November 2022, the Committee of Ministers held the election to fill the five seats falling vacant on 31 December 2022 as well as the seat already vacant following the resignation of a member (see below). Ms Aoife NOLAN (Irish) and Ms Kristine DUPATE (Latvian) were elected for a second term, Ms Monika ŠIMŮNKOVÁ (Czech) and Ms Carmen SALCEDO BELTRÁN (Spanish) were elected as members for a first term in office. The term of office of these members begins on 1 January 2023 and ends on 31 December 2028.

18. At the 1457th meeting of the Ministers’ Deputies in 22 February 2023 the Committee of Ministers elected Mr Franz MARHOLD for a first term with immediate effect, the term of office ends on 31 December 2028.

19. The remaining vacant seat will be filled as soon as possible in 2023.

20. The Committee wishes to express its appreciation and gratitude to the 3 outgoing members, Ms Karin LUKAS (Austrian), Mr Giuseppe PALMISANO (Italian) and Ms Barbara KRESAL (Slovenian) for their outstanding contribution to the Committee’s work and for their tireless efforts to promote social rights.

21. On 8 December 2022 a seminar in honour of the three outgoing members was organised in Strasbourg on the topic of Strengthening social rights in Europe.

Resignation of a member

22. Ms Ekaterina TORKUNOVA (Russian) resigned on 22 March 2022. She had been a member of the Committee since 1 January 2019.

Implementation of the report on Improving the European Social Charter System

23. On 27 September 2022, at the 1444th meeting of the Ministers’ Deputies, the Committee of Ministers adopted the operational decisions to reform the European Social Charter system (CM(2022)114).

24. The reform covers the statutory reporting procedure as well as a new ad hoc reporting on critical or emerging issues. It also addresses certain procedural aspects of reporting on follow-up to decisions in the collective complaints’ procedure. Finally, it responds to the desire by States Parties for enhanced dialogue and other means of improving follow-up to the monitoring activities under the Charter.

25. Under the new system for presentation of reports, the Charter provisions will be divided into two groups with reports on one group due every two years (meaning that all Charter provisions will be reported on over a four-year period). The timing of ad hoc reports will be decided jointly by the European Committee of Social Rights and the Governmental Committee. As regards reporting on follow-up to decisions in collective complaints there will henceforth be only one single report for each decision to be submitted approximately two years after the adoption of the Committee of Ministers’ recommendation.

26. The implementation of the new system will start being phased in as of 2023 (the first reports under the new system to be submitted by the end of 2023 with a view to examination by the Committee in 2024).

Statements of interpretation

27. The Committee makes the following statements of interpretation:

- **Statement of interpretation on Article 4§4**

Following on from its statement of interpretation on Article 4§4 (2018), the Committee recalls that the question of the reasonableness of the notice periods will no longer be addressed, except where the notice periods are manifestly unreasonable. The Committee will assess this question on the basis of:

1. The rules governing the setting of notice periods (or the level of compensation in lieu of notice):
 - according to the source of the rule, namely the law, collective agreements, individual contracts and court judgments;
 - during any probationary periods, including those in the public service;
 - with regard to the treatment of workers in insecure jobs;
 - in the event of termination of employment for reasons outside the parties' control;
 - including any circumstances in which workers can be dismissed without notice or compensation.
2. Acknowledgment, by law, collective agreement or individual contract of length of service, whether with the same employer or where a worker has been successively employed in precarious forms of employment relations.

The Committee considers that in the event of the death of an employer who is a natural person, there is no obligation to give a notice period. However, it asks if there a mechanism to protect the interests of workers employed by employer who is natural person in the event of the employer's death (contractual or statutory compensation).

- **Statement of interpretation on Article 4§5**

The Committee recalls that the deductions envisaged in Article 4§5 can only be authorised in certain circumstances which must be well-defined in a legal instrument (for instance, a law, regulation, collective agreement or arbitration award (Conclusions V (1977), Statement of interpretation on Article 4§5). The Committee further recalls that deductions from wages must be subject to reasonable limits and should not per se result in depriving workers and their dependents of their means of subsistence (Conclusions 2014, Estonia).

With a view to making an in-depth assessment of national situations the Committee has considered it necessary to change its approach. Therefore, the Committee asks States Parties to provide the following information in their next reports:

- a description of the legal framework regarding wage deductions, including the information on the amount of protected (unattachable) wage;
- Information on the national subsistence level, how it is calculated, and how the calculation of that minimum subsistence level ensures that workers can provide for the subsistence needs of themselves and their dependents.
- Information establishing that the disposable income of a worker earning the minimum wage after all deductions (including for child maintenance) is enough to guarantee the

means of subsistence (i.e., to ensure that workers can provide for the subsistence needs of themselves and their dependents).

- a description of safeguards that prevent workers from waiving their right to the restriction on deductions from wage.

Other statements

Statement regarding Article 2§1 of the Charter – seafarers’ weekly working hours

28. The Committee makes the following statement regarding Article 2§1 of the Charter – seafarers’ weekly working hours:

Under Article 2§1 of the Charter, weekly working time shall not exceed 60 hours and the Committee has held that this also applies to seafarers.

There are four States in respect of which the Committee in the past reached conclusions of non-conformity on the ground that the working time of seafarers was excessive. These States are: Ireland, Italy, Estonia and Iceland.

As seafarers are a category of workers carrying out very specific nature of work in a very particular environment, the Committee will re-examine their situation in the future, taking into account other international instruments in the area. When re-examining the situation and possibly making an exception to the maximum weekly working time of 60 hours, the Committee will have regard to rest periods for seafarers.

For the purposes of the present reporting cycle and Conclusions 2023, in respect of Ireland, Italy and Estonia the Committee will note in these conclusions that the issue of seafarers’ working hours will be re-examined and will reserve its position on this point.

Statement on information in national reports and information provided to the Governmental Committee

29. The Committee draws the attention of the States Parties to the obligation to systematically include replies to information requests by the Committee in the national reports. Moreover, the Committee recalls that States Parties must always include in the report any relevant information previously provided to the Governmental Committee, whether in writing or orally, or at least to refer to such information, and of course to indicate any developments or changes that may have intervened in the period since the information was provided to the Governmental Committee.

Next reports

30. The next reports on the accepted provisions, which were due by 31 December 2022, concern the following Articles belonging to the thematic group "Children, families and migrants": 7, 8, 16, 17 and 19. States having accepted the collective complaints procedure and belonging to Group A were due to submit a simplified report on follow-up to complaints also before 31 December 2022.

Summary of the European Committee of Social Rights Conclusions 2022

Article	DNK	GBR	LUX	NLDBES	NLDCUW	POL	DEU	ESP
Article 2.1			+			-	-	-
Article 2.2	N/E	-	+				+	+
Article 2.3	N/E	+	+			+	+	-
Article 2.4		-	-			+	+	-
Article 2.5	N/E	-	+			+	+	+
Article 4.1	N/E	-	-				0	-
Article 4.2	N/E	-	+			-	+	-
Article 4.3	N/E		-			-	-	+
Article 4.4		-				-		-
Article 4.5		-	+			+	+	+
Article 5	-	-	+	0	0	-	+	0
Article 6.1	N/E	+	+	+	+	+	+	+
Article 6.2	-	-	+	+	-	+	+	-
Article 6.3	+	+	0	+	+	+	+	0
Article 6.4	N/E	-		0	-		-	-
P Article 2	N/E							+
P Article 3	N/E							0
	LEGENDE:							
		Non-accepted provision						
	N/E	Not examined						
	+	Conformity						
	-	Non-conformity						
	0	Deferral						

Signatures and ratifications of the European Social Charter by Council of Europe members states

Member states		Signatures	Ratifications	Acceptance of the collective complaints procedure	
Albania		21/09/1998	14/11/2002		
Andorra		04/11/2000	12/11/2004		
Armenia		18/10/2001	21/01/2004		
Austria		07/05/1999	20/05/2011		
Azerbaijan		18/10/2001	02/09/2004		
Belgium		03/05/1996	02/03/2004	23/06/2003	
Bosnia and Herzegovina		11/05/2004	07/10/2008		
Bulgaria		21/09/1998	07/06/2000	07/06/2000	
Croatia		06/11/2009	26/02/2003	26/02/2003	
Cyprus		03/05/1996	27/09/2000	06/08/1996	
Czech Republic		04/11/2000	03/11/1999	04/04/2012	
Denmark	*	03/05/1996	03/03/1965		
Estonia		04/05/1998	11/09/2000		
Finland		03/05/1996	21/06/2002	17/07/1998	X
France		03/05/1996	07/05/1999	07/05/1999	
Georgia		30/06/2000	22/08/2005		
Germany	*	29/06/2007	29/03/2021		
Greece		03/05/1996	18/03/2016	18/06/1998	
Hungary		07/10/2004	20/04/2009		
Iceland		04/11/1998	15/01/1976		
Ireland		04/11/2000	04/11/2000	04/11/2000	
Italy		03/05/1996	05/07/1999	03/11/1997	
Latvia		29/05/2007	26/03/2013		
Liechtenstein		09/10/1991			
Lithuania		08/09/1997	29/06/2001		
Luxembourg*	*	11/02/1998	10/10/1991		
Malta		27/07/2005	27/07/2005		
Republic of Moldova		03/11/1998	08/11/2001		
Monaco		05/10/2004			
Montenegro		22/03/2005	03/03/2010		
Netherlands		23/01/2004	03/05/2006	03/05/2006	

Norway		07/05/2001	07/05/2001	20/03/1997
North Macedonia		27/05/2009	06/01/2012	
Poland		25/10/2005	25/06/1997	
Portugal		03/05/1996	30/05/2002	20/03/1998
Romania		14/05/1997	07/05/1999	
San Marino		18/10/2001		
Serbia		22/03/2005	14/09/2009	
Slovak Republic		18/11/1999	23/04/2009	
Slovenia		11/10/1997	07/05/1999	07/05/1999
Spain		23/10/2000	17/05/2021	17/05/2021
Sweden		03/05/1996	29/05/1998	29/05/1998
Switzerland		06/05/1976		
Türkiye		06/10/2004	27/06/2007	
Ukraine		07/05/1999	21/12/2006	
United Kingdom	*	07/11/1997	11/07/1962	
Number of States	46	2 + 44 = 46	7 + 35 = 42	16

The dates in bold correspond to the dates of signature or ratification of the 1961 Charter; the other dates correspond to the signature or ratification of the 1996 revised Charter.

* States whose ratification is necessary for the entry into force of the 1991 Amending Protocol. In practice, in accordance with a [decision](#) taken by the Committee of Ministers on 11 December 1991, this Protocol is already applied.

X State having recognised the right of national NGOs to lodge collective complaints against it. This table is regularly updated on the Charter's website: www.coe.int/socialcharter