

# – Lithuania and the European Social Charter –



Update: December 2010

## Ratifications

Lithuania ratified the Revised European Social Charter on 29/06/2001. It has accepted 86 of the 98 paragraphs of the Revised Charter.

Lithuania has not yet signed or ratified the Additional Protocol providing for a system of collective complaints.

### Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3										

Grey = Accepted provisions

## The Charter in domestic law

Automatic incorporation into domestic law and superiority of International treaties ratified by the Seimas (Parliament) over national legislation (Article 138 of the Constitution and Article 11 of the Law on Treaties).

### Reports \*

Between 2003 and 2010, Lithuania submitted 8 reports on the application of the Revised Charter.

The [7<sup>th</sup> report](#) on the revised Charter covered the accepted provisions relating to Thematic Group 3 "Labour rights" (Articles 2, 4, 6, 21, 22 and 26 of the Revised Charter). Conclusions in respect of these provisions were published in December 2010.

The [8<sup>th</sup> report](#), submitted on 23/11/2010, covers the accepted provisions related to Thematic Group 4 "Children, families, migrants" i.e.

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19 §§ 1, 3, 5, 7, 9, 10),
- the right of workers with family responsibilities to equal opportunity and treatment (Article 27),
- the right to housing (Article 31).

\* [Following a decision taken by the Committee of Ministers in 2006](#), the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.



## The situation of Lithuania with respect to the application of the Revised Charter

### Examples of progress achieved in the implementation of social rights under the European Social Charter<sup>1</sup>

#### Children

- ▶ Extension of the number of child allowance beneficiaries (Child Allowances Act, entry into force 1 July 2004).

#### Cases of non-compliance

##### Thematic group 1 "Employment, training and equal opportunities"

- ▶ *Article 15§2 – Right to work - Policy of full employment*

Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

The employment rights of persons who have in the past been employed in the security services of the former Soviet Union are restricted beyond the scope of Article G.

([Conclusions 2008](#))

- ▶ *Article 15§4 (and 9 and 10§3) - Right to work - Vocational guidance, training and rehabilitation*

It has not been established that equal treatment is guaranteed to all nationals of States Parties and with regard to continuing vocational training for workers (Article 10§3) on the ground that it has not been established that the right to individual training leave is guaranteed to workers.

([Conclusions 2008](#))

- ▶ *Article 9 - Right to vocational guidance*

It has not been established that equal treatment is guaranteed to all nationals of States Parties.

([Conclusions 2008](#))

- ▶ *Article 10§3 - Right to vocational training - Vocational training and retraining of adult workers*

It has not been established that the right to individual training leave is guaranteed to workers.

([Conclusions 2008](#))

- ▶ *Article 15§2 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities*

Legislation does not make reasonable accommodation of the workplace a requirement.

([Conclusions 2008](#))

- ▶ *Article 15§3 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community*

There is no general anti-discrimination legislation to protect persons with disabilities, which explicitly covers the fields of housing, transport, telecommunications and cultural and leisure activities.

([Conclusions 2008](#))

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<sup>1</sup> « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure » (Article 2 of the Rules of the Committee).

## **Thematic group 2 : "Health, social security and social protection"**

► *Article 11§1 - Right to protection of health - Removal of the causes of ill-health*

It has not been established that significant efforts are being made to increase life expectancy, which is significantly lower than in other European countries and which is not increasing sufficiently.

([Conclusions 2009](#))

► *Article 12§1 - Right to social security - Existence of a social security system*

- the minimum level of the unemployment insurance benefit is manifestly inadequate;
- the level of the old age state social insurance basic pension is manifestly inadequate.

([Conclusions 2009](#))

► *Article 12§4 – Right to social security - Social security of persons moving between states*

- entitlement to state social insurance pensions is subject to a residence requirement;
- the retention of accrued benefits related to work accidents, occupational disease, sickness or maternity for persons moving to a State Party which is not covered by Community regulations or not bound by an agreement with Lithuania is not guaranteed;
- it has not been established that nationals of States Parties not covered by Community regulations or bound by an agreement with Lithuania are entitled to accumulate insurance or employment periods completed in other countries.

([Conclusions 2009](#))

► *Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need*

- the level of social assistance paid to single persons without resources, including the elderly, is manifestly inadequate;
- the granting of social assistance benefits to nationals of other States Parties is subject to an excessive length of residence requirement.

([Conclusions 2009](#))

## **Thematic group 3: "Labour rights"**

► *Article 2§1- Right to just conditions of work - Reasonable working time*

For some categories of workers a working day may be allowed of up to 24 hours.

([Conclusions 2010](#))

► *Article 4§1 – Right to a fair remuneration – Decent remuneration*

It has not been established that a decent wage is guaranteed to all workers. The minimum net wage is manifestly unfair.

([Conclusions 2010](#))

► *Article 4§5 – Right to a fair remuneration - Limits to deduction from wages*

In some cases, salaries of workers after deductions will not ensure means of subsistence for themselves and their dependants.

([Conclusions 2010](#))

► *Article 5 – Right to organise*

The requirement of thirty members to form a trade union is excessive and undermines the freedom to organise.

([Conclusions 2010](#))

► *Article 6§2 - Right to bargain collectively - Negotiation procedures*

Coverage of workers by collective agreements is weak.

([Conclusions 2010](#))

## **Thematic group 4: "Children, families and migrants"**

► *Article 8§1 – Right of employed women to protection of maternity - Maternity leave*

There is no compulsory period of 6 weeks post-natal maternity leave.

[\(Conclusions 2005\)](#)

▶ *Article 8§2 – Right of employed women to protection of maternity - Illegality of dismissal during maternity leave*

National law did not, for at least part of the reference period (2001-2002), ensure that adequate damages were payable to a woman dismissed in violation of this provision.

[\(Conclusions 2005\)](#)

▶ *Article 8§5 – Right of employed women to protection of maternity - Prohibition of dangerous, unhealthy or arduous work*

Pregnant women, women who have recently given birth and breastfeeding women who were obliged to take leave due to the health and safety risks at work were not remunerated or compensated during this period.

[\(Conclusions 2005\)](#)

▶ *Article 16 – Right of the family to social, legal and economic protection*

There is no equal treatment of nationals of other States Parties in respect of the payment of family benefits because of an excessive residence requirement.

[\(Conclusions 2006\)](#)

▶ *Article 17§1 – Right of children and young persons to social, legal and economic protection - Assistance, education and training*

Corporal punishment of children is not prohibited within the family.

[\(Conclusions 2005\)](#)

▶ *Article 19§7 (and 19§10) – Right of migrant workers and their families to protection and assistance; - Equality regarding legal proceedings, and - Equal treatment for the self-employed*

Migrant workers from non-European Union States Parties to the Charter are not entitled to apply for state-guaranteed legal aid.

[\(Conclusions 2006\)](#)

▶ *Article 27§1 – Right of workers with family responsibilities to equal opportunity and treatment Participation in working life*

Fathers who are not single are discriminated against with regard to the right to work part-time.

[\(Conclusions 2005\)](#)

**The European Committee of Social Rights has been unable to assess compliance with the following rights and has invited the Lithuanian Government to provide more information in the next report in respect of the following provisions:**

**Thematic group 1 “Employment, training and equal opportunities”**

(Report to be submitted before 31 October 2011)

▶ Article 10§2 – Conclusions 2008

▶ Article 18§4 – Conclusions 2008

▶ Article 25 – Conclusions 2008

**Thematic group 2 : “Health, social security and social protection”**

(Report to be submitted before 31 October 2012)

▶ Article 3§§2 and 3 – Conclusions 2009

▶ Article 11§2 – Conclusions 2009

▶ Article 14§1 – Conclusions 2009

**Thematic group 3: "Labour rights"**

(Report to be submitted before 31 October 2013)

- ▶ Article 4§2 – Conclusions 2010
- ▶ Article 6§4 - Conclusions 2010

**Thematic group 4: "Children, families and migrants"**

(Report to be submitted before 31 October 2010, Conclusions to be published by the end of 2010)

- ▶ Article 7§§ 3, 5, 6 and 10 6 Conclusions 2006
- ▶ Article 8§4 – Conclusions 2005
- ▶ Article 17§2 – Conclusions 2005
- ▶ Article 27§3 – Conclusions 2005
- ▶ Article 31§§1 and 2 – Conclusions 2005