

— Montenegro and the European Social Charter —

Signatures, ratifications and accepted provisions

Montenegro ratified the Revised European Social Charter on 3 March 2010, accepting 66 of its 98 paragraphs.

It has not accepted the system of collective complaints.

The Charter in domestic law

Automatic incorporation into domestic law.

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				

* only subparagraph (a) of Article 27.1 was accepted.

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted a [report concerning Montenegro](#) in 2015. The Committee considered that there were no legal obstacles to the acceptance of Article 2 §§ 4, 5 and 7; Article 7§10, Article 10 § 5; Article 18 §§ 1, 2, 3 and 4; Article 19§§1, 2, 3, 5, 7, 9 and 10; Article 21, Article 22 and Article 26§2 of the Charter.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

Monitoring the implementation of the European Social Charter ¹

I. Reporting system ²

Reports submitted by Montenegro

Between 2010 and 2017, Montenegro has submitted 6 reports on the application of the Revised Charter.

The 6th report, which was submitted on 1/2/2017, concerns the accepted provisions relating to Thematic Group 2 "Health, Social security and social protection" (Articles 3, 11, 12, 13, 14, 23 and 30).

In addition, the report provides the information required by the Committee in the framework of Conclusions 2015 relating to Thematic Group 4 "Children, families, migrants" (Articles 7, 8, 16, 17, 19, 27 and 31 of the Revised Charter), in the event of non-conformity for lack of information.

The conclusions related to these provisions will be published in January 2018.

The 7th report, to be submitted by 31 October 2017, should concern the accepted provisions relating to Thematic Group 3 "Labour Rights", namely:

- 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 take part in the determination and improvement of the working conditions and working environment (Article 22),
- the right of dignity at work (Article 26),
- the right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28),
- the right to information and consultation in collective redundancy procedures (Article 29).

Conclusions with respect to these provisions will be published in January 2019.

¹ The European Committee of Social Rights ("the Committee") monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 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 ». Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

² Following a [decision taken by the Committee of Ministers in 2006](#), the provisions of the 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.

Following a [decision taken by the Committee of Ministers in April 2014](#), States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups.

Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

Situations of non-conformity ³

Thematic Group 1 "Employment, training and equal opportunities" - Conclusions 2016

► *Article 1§1 – Right to work – Policy of full employment*

It has not been established that employment policy efforts have been adequate in combatting unemployment and promoting job creation.

► *Article 1§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

Nationals of the other States Parties do not have access to certain jobs, which constitutes a discrimination on grounds of nationality.

► *Article 1§4 – Right to work - Vocational guidance, training and rehabilitation*

- it has not been established that the right to vocational guidance within the education system and the labour market is guaranteed;
- it has not been established that vocational training and retraining is guaranteed for adult workers;
- it has not been established that the right of persons with disabilities to mainstream education and training is effectively guaranteed.

► *Article 9 – Right to vocational guidance - Vocational guidance within the education system and in the labour market*

It has not been established that the right to vocational guidance within the education system and the labour market is guaranteed.

► *Article 10§1 – Right to vocational training - Technical and vocational training; access to higher technical and university education*

The right to vocational education is not effectively guaranteed in practice.

► *Article 10§2 – Right to vocational training – Apprenticeship*

It has not been established that there is a functioning system of apprenticeships.

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

It has not been established that vocational training and retraining is guaranteed for adult workers.

► *Article 10§4 – Right to vocational training - Long term unemployed persons*

Special measures for the retraining and reintegration of the long-term unemployed have not been effectively provided or promoted.

► *Article 15§1 – Right of persons with disabilities to independence, social integration and participation in the life of the community - Vocational training for persons with disabilities*

It has not been established that the right of persons with disabilities to mainstream education and training is effectively guaranteed.

► *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*

- it has not been established that the legal obligation to make reasonable adjustments is effectively respected;
- it has not been established that equal access to employment is effectively guaranteed to persons with disabilities.

► *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*

It has not been established that persons with disabilities were effectively protected against discrimination in relation to housing during the reference period.

³ Further information on the situations of non-conformity is available on the [HUDOC database](#).

► *Article 20 – Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex – Equal rights*

Legislation prohibits women from performing certain occupations, which constitutes a discrimination based on sex.

► *Article 24 – Right to protection in case of dismissal – Scope*

It has not been established that the legislation prohibits dismissal of an employee at the initiative of the employer on the ground that he/she has reached the pensionable age.

Thematic Group 2 “Health, social security and social protection” - Conclusions 2013

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

The duration of the unemployment benefit is too short.

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

The level of social assistance is manifestly inadequate.

► *Article 13§4 – Right to social and medical assistance - Specific emergency assistance for non-residents*

It has not been established that non-resident foreign nationals are all entitled to emergency social and medical assistance. Conclusions 2015

► *Article 23 – Right of elderly persons to social protection*

The minimum level of old-age pension is inadequate.

Thematic Group 3 “Labour rights” - Conclusions 2014

Thematic Group 4 “Children, families, migrants” – Conclusions 2015

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

Family benefits do not cover a significant number of families.

► *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 in the home and in institutions.

The Committee has been unable to assess compliance with the following provisions and has invited the Government of Montenegro to provide more information in the next report:

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ - - Conclusions 2016

Thematic Group 2 "Health, social security and social protection"

- ▶ Article 3§1 - Conclusions 2013
- ▶ Article 3§2 - Conclusions 2013
- ▶ Article 3§3 - Conclusions 2013
- ▶ Article 3§4 - Conclusions 2013
- ▶ Article 11§1 - Conclusions 2013
- ▶ Article 11§2 - Conclusions 2013
- ▶ Article 11§3 - Conclusions 2013
- ▶ Article 12§2 - Conclusions 2013
- ▶ Article 12§3 - Conclusions 2013
- ▶ Article 12§4 - Conclusions 2013
- ▶ Article 13§3 - Conclusions 2013
- ▶ Article 14§1 - Conclusions 2013
- ▶ Article 14§2 - Conclusions 2013

Thematic Group 3 "Labour rights"

- ▶ Article 2§2 - Conclusions 2014
- ▶ Article 4§2 - Conclusions 2014
- ▶ Article 4§3 - Conclusions 2014
- ▶ Article 4§5 - Conclusions 2014
- ▶ Article 5 - Conclusions 2014
- ▶ Article 6§1 - Conclusions 2014
- ▶ Article 6§2 - Conclusions 2014
- ▶ Article 6§3 - Conclusions 2014
- ▶ Article 6§4 - Conclusions 2014
- ▶ Article 28 - Conclusions 2014

Thematic Group 4 "Children, families, migrants"

- ▶ Article 7§4 - Conclusions 2015
- ▶ Article 7§5 - Conclusions 2015
- ▶ Article 7§9 - Conclusions 2015
- ▶ Article 27§1 - Conclusions 2015
- ▶ Article 27§3 - Conclusions 2015

II. Examples of progress achieved in the implementation of rights under the Charter (*update in progress*)

Employment

- ▶ Section 155 of the Labour Law (Official Journal of Montenegro, Nos. 49/2008, 26/2009 and 59/ 2011 and 66/2012) provides that employees are guaranteed the freedom of trade unions to organise and take action, without prior approval.
- ▶ Section 12 of the Labour Law (Official Journal of Montenegro, Nos. 49/2008, 26/2009 and 59/ 2011 and 66/2012) provides that employees, directly or through their representatives, have *inter alia* the right to take part in negotiations for the conclusion of collective agreements.
- ▶ 2014 Law on Safety and Health Protection at Work.

Harassment

- ▶ The Law on prohibition of harassment at work (Official Journal No. 30/12), adopted in June 2012, sets the obligation for the employer to inform the employees in writing of the rights, obligations and responsibilities related to harassment in the workplace in order to identify and prevent harassment, including sexual harassment.

Rights of persons with disabilities

- ▶ The Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of Montenegro, no. 49/08, 73/10 and 39/11), as amended in 2011, sets out the arrangements and procedures for applying the right to vocational rehabilitation of persons with disabilities. The amendments made to the Law change the system of employment quotas for persons with disabilities.